THE PROCEEDINGS UPON THE BILL of DIVORCE, Between his GRACE the DUKE of *NORFOLKE* AND THE LADY *Mary Mordant.*

Printed by the Appointment of his Grace the DUKE of NORFOLK.

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THE PROCEEDINGS UPON THE *Bill of Divorce*, &c.

Die Jovis 15. *Die Februarii*, 1699.

UPON Reading the Petition of *Henry* Duke of *Norfolk*, praying Leave to bring in a Bill to diſſolve his Marriage with the Lady *Mary Mordant*, and to enable him to marry again; he having certain Proof of his Wife's living in Adultery with Sir *John Germaine*, It is Order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That the ſaid Petition ſhall be taken into Conſideration to Morrow at Eleven of the Clock, and all the Lords ſummoned to attend.

Die

Die Veneris, 16 Februarii, 1699.

After reading the Order for resuming the Consideration of the Duke of *Norfolk's* Petition, and debate thereupon.

Hodie prima vice lecta est Billa, entituled, *An Act to dissolve the Duke of* Norfolk's *Marriage with the Lady* Mary Mordant, *and to enable him to marry again.* In the Words following.

Humbly sheweth and complaineth to Your most Excellent Majesty, your true and faithful Subject Henry **Duke of** Norfolk, **and Earl Marshall of** England, **that he did some Years since marry the Lady** Mary Mordant **his now Wife, and that she hath for divers Years lived in Separation from the said Subject, and hath had unlawful Familiarity and adulterous Conversation with Sir** John Germaine, **Bart. and is guilty of Adultery on her part, and hath broken the Bond of Matrimony. For as much therefore as your said Subject hath no Issue, nor can hope for any other than spurious Issue to succeed him in his Honours, Dignities, and Estate, unless the said Marriage be declared void and annulled by Parliament, and your said Subject be enabled to marry any other Woman. May it please your most excellent Majesty,**

jesty out of your Princely Goodness and Compassion to your said Subject's Misfortune and Calamity, and for the future Support and Comfort of himself and Family, that it may be enacted, And be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, and by the Authority of the same, that the said Bond of Matrimony being violated and broken by the manifest open Adultery of the said Lady Mary Mordant, be, and is hereby enacted, declared and adjudged to be from henceforth wholly dissolved, annulled, vacated, and made void to all Intents, Constructions and Purposes whatsoever: And that it shall and may be lawful to and for the said Henry Duke of Norfolk, at any time or times hereafter to contract Matrimony, and to marry (as well in the Life time of the said Lady Mary as if she were naturally dead) with any other Woman or Women, with whom he might lawfully marry in case the said Lady Mary was not living. And that such Matrimony, when had and celebrated, shall be a good, just, and lawful Marriage, and so shall be adjudged, deemed,

deemed, and taken to all Intents, Conſtructions and Purpoſes; and that all and every Child and Children born in ſuch Matrimony, ſhall be deemed, adjudged, and taken to be born in lawful Wedlock, and to be legitimate and inheritable, and ſhall inherit the ſaid Dukedome of Norfolk, Office of Earl Marſhal of England, and all other Earldoms, Dignities, Baronies, Honours and Titles of Honour, Lands, Tenements and other Hereditaments from and by their Fathers, Mothers, and other Anceſtors in like manner and form as any other Child or Children born in lawful Matrimony ſhall or may inherit or be inheritable according to the courſe of Inheritances uſed in this Realm; and to have and enjoy all Privileges, Preheminences, Benefits, Advantages, Claims and Demands, as any other Child or Children born in lawful Wedlock, may have or claim by the Laws or Cuſtoms of this Kingdom. And be it further enacted, That the ſaid Henry Duke of Norfolk ſhall be entituled to be Tenant by Courteſie of the Lands and Inheritance of ſuch Wife whom he ſhall hereafter marry, and ſuch Wife as he ſhall ſo marry ſhall be entituled to Dower of the

the Lands and Tenements whereof the ſaid Henry Duke of Norfolk ſhall be ſeized of ſuch Eſtate whereof ſhe ſhall be dowable, as any other Huſband or Wife may or might claim, have or enjoy. And the Child or Children born in ſuch Marriage ſhall and may derive, and make Title by Deſcent or otherwiſe to and from any of their Anceſtors, as any other Child or Children may do, any Law, Statute, Reſtraint, Prohibition, Ordinance, Canon, Conſtitution, Preſcription or Cuſtom had, made, exerciſed, or uſed to the contrary of the Premiſes or any of them in any wiſe notwithſtanding. And be it further enacted by the Authority aforeſaid, That the ſaid Lady Mary ſhall, and is hereby barred and excluded of and from all Dower and Thirds, and of and from all Right or Title of Dower and Thirds unto or out of any the Honours, Mannors, Lands, or Hereditaments of the ſaid Duke; and that all Conveyances, Joyntures, Settlements, Limitations and Creations of Uſes and Truſts of, into, or out of any Honours, Mannours, Lands or Hereditaments at any time heretofore made by the ſaid Duke, or any of his Anceſtors or Truſtees unto

to or upon, or for the Use and Benefit of the said Lady Mary, or any Issue of her Body, or for easig, discharging or counter-securing any the Mannors, Lands and Hereditaments of the said Lady Mary, or any of her Ancestors, shall be from henceforth, so far as concerns the said Lady Mary, or any Issue of her Body, or any Interest for her or them, utterly void and of none effect; and all and every the said Honours, Mannours. Lands or Hereditaments of the said Duke or any of his Ancestors or Trustees, shall from henceforth remain and be to and for the Use and Benefit of the said Duke, and such other Person or Persons, and for such Estates and Interests, and in such manner and form as if the said Lady Mary was now naturally dead, without any Issue of her Body. And also that all Limitations and Creations of any Use, Estate, Power or Trust made by any the Ancestors of the said Lady Mary, unto or for the Use or Benefit of the said Duke, Heirs or Assigns, out of any the Mannours, Lands or Heriditaments of any the Ancestours of the said Lady Mary, shall be from henceforth void and of none effect.

And

* And be it further enacted by the Authority aforesaid, That the said Duke of Norfolk, his Heirs, Executors, Administrators or Assigns, shall, on or before the Five and twentieth Day of March One thousand seven hundred and one, pay or cause to be paid unto the said Lady Mary or her Assignes, the Sum of ten thousand Pounds of lawful Mony of England, which was the Portion in Mony paid on her Marriage with the said Duke; and on Default of Payment of the said Sum of ten thousand Pounds, on or before the said Five and twentieth Day of March, then, and in such case, she, the said Lady Mary and her Assignes during her Natural Life from the decease of the said Duke, if she shall survive him, shall be entituled to, and shall and may have and enjoy such Joynture and other Advantages as she might or may have or claim by vertue of a certain Indenture, Quinque-partite, made upon and in Consideration of the said Marriage, bearing date the thirteenth day of June, Anno Domini One thousand six hundred seventy and seven, and made or

* This Clause was added after the Bill was brought into the House of Lords.

or mentioned to have been made between Henry late Duke of Norfolk, then Earl of Norwich, Father of the said Duke, and the present Duke by the Name of Henry Lord Howard of the first Part, Henry Earl of Peterborough and the said Dutchess by the Name of the Lady Mordant, sole Daughter and Heir apparent of the said Earl of Peterborough of the second Part; Henry Marquis of Worcester, William, Earl of Powis, and Henry, Lord Obrion of the third Part, Arthur Onslow, Esq; and Thomas Dalmatroy, Esq; of the fourth Part; Simon Fox, Esq; and Thomas West, Gent. of the fifth Part; and by Virtue of the Agreements contained in the certain Articles bearing Date the eight and twentieth Day of April, in the Year of our Lord One thousand six hundred ninety four, made or mentioned, to have been made between the said Duke of the one Part, and the said Henry Earl of Peterborough on Behalf of the said Dutchess, and the said Dutchess of the other Part, according to the true Intent and Meaning of the said Quinque-partite, Indenture and Articles, and also during the said Joint-Lives of the said Duke and Dutchess, shall, and may enjoy five hundred Pounds per Annum, by Virtue

of

of an Indenture Quadru-partite, dated the fifteenth Day of June, One thouſand ſix hundred ninety four, made or mentioned to have been made, between the ſaid Duke of Norfolk of the firſt Part, the ſaid Earl of Peterborough and the ſaid Dutcheſs of the ſecond Part, William Lord Lempſter of the third Part, and Sir John Mordant, Knight and Baronet, and William Longueville, Eſq; of the fourth Part. And then and in ſuch Caſe, the ſaid Duke of Norfolk, his Heirs, Executors, and Adminiſtrators, is, and are diſcharged of and from the Payment of the ſaid Sum of Ten thouſand Pounds, any Things herein contained to the contrary thereof in any Wiſe as aforeſaid, She, the ſaid Lady Mary, ſhall be wholly barred and excluded from her ſaid Joynture, and of and from all other Advantages, out of the Real and Perſonal Eſtate of the ſaid Duke as aforeſaid.

Upon the firſt Reading of the Bill, entituled, *An Act to diſſolve the Duke of* Norfolk's *Marriage with the Lady* Mary Mordant, *and to enable him to marry again,* It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That the Dutcheſs of *Norfolk* may have a Copy of the ſaid Bill: And that his Grace the Duke of *Norfolk*,

Norfolk ſhall be heard by his Council, make good the Allegations of his Bill, *Tueſday* next, at Eleven of the Clock in t Forenoon: And that the Dutcheſs of *Norfolk* may have Council to attend at t ſame time if ſhe pleaſe.

Die Sabbati, 17 *Februarii*, 1699.

Upon reading the Petition of *Ma* Dutcheſs of *Norfolk*, praying to be hea by her Council before any farther Proce ings be made on the Bill, entituled, A Act to diſſolve the Duke of *Norfolk*'s M riage with the Lady *Mary Mordant*, a to enable him to marry again, It is orde by the Lords Spiritual and Temporal Parliament aſſembled, that the Dutch of *Norfolk* ſhall be heard by her Council deſir'd, on *Tueſday* next at Eleven of t Clock in the Forenoon.

It is order'd by the Lord's Spiritual a Temporal in Parliament aſſembled, Th *William Lane*, and *John le Fountaine*, Ge do attend this Houſe on *Tueſday* the twe tieth Day of this inſtant *February*, at T of the Clock in the Forenoon, as Witne to be examin'd on the Behalf of the Du of *Norfolk*.

Die Lunæ, 19 *Februarii*, 1699.

It is order'd by the Lords Spiritual a Temporal in Parliament aſſembled, Th

Mr. *Daniel Germaine*, Mr. *Simon Briane*, *alias de Brienne*, Mrs. *Anna Maria Briane*, *alias de Brienne*, and Mrs. *Judith Poſſette*, *alias Perſode*, do, and they are hereby requir'd to attend this Houſe, as Witneſſes on the Behalf of his Grace the Duke of *Norfolk*, to Morrow at Eleven of the Clock in the Forenoon.

Die Martis, 20 *Februarii*, 1699.

After hearing Council upon the Petition of the Dutcheſs of *Norfolk*, purſuant to the Order of the 17th Inſtant, as alſo Council for the Duke of *Norfolk*, the following Order was made, *viz.*

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That this Houſe will hear Witneſſes for the Duke of *Norfolk*, only to matter of Fact, ſince the rejecting of the firſt Bill, except only Mr. *Daniel Germaine*, Mr. *Simon Briane* alias *de Brienne*, Mrs. *Anna Maria Briane* or *de Brienne*, Mrs. *Judith Poſſette* or *Perſode*, Mrs. *Eleanor Vaneß*, who are at liberty to give Evidence to matters of Fact before that time, which were not then before the Houſe; and are hereby requir'd to attend this Houſe, as Witneſſes on the Behalf of of his Grace the Duke of *Norfolk*, to morrow Morning at Eleven of the Clock.

It is Order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That

to

to morrow at twelve of the Clock this Houſe will proceed to hear Councel and Witneſſes for the Duke of *Norfolke*, to make good the Allegations in his Bill, at which time the Dutcheſs of *Norfolk*'s Council ſhall be preſent.

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That *William Bayly* and *Edmund Davies* do, and they are hereby requir'd to attend this Houſe to morrow at Eleven of the Clock in the Forenoon, as Witneſſes to be examined on the behalf of the Duke of *Norfolk*.

Die Mercurii, 21 *Februarii*.

The Houſe being informed, that Endeavours had been made to ſerve Orders upon the Duke of *Norfolke*'s Witneſſes, and ſeveral of them were ſick, and others could not be found.

Joſeph Whilley being call'd in and ſworn, ſaid as follows.

Daniel Germaine——I went to his Houſe, and was told by a Neighbour no body was within; but they bid me go to the Alehouſe at the next Door and I might hear of him; and enquiring there, I found one of his Journeymen, *Peter Hercules*, who told me he had not been at Home theſe ſix Months, nor could not tell when he would return; but I ſhew'd him the Original Order, and ſerved him with a Copy, and told

told him his Maſter was to appear at the Duke of *Norfolk*'s Lodgings, at the Houſe of Lords, to morrow at Eleven a Clock as a Witneſs for him.

Mr. *Simon Briane*,] I went to his Houſe in St. *James*'s Street, and Mr. *Poſſette*'s Man, *Jer. Hoffman* came to the Door, who told me Mr. *Briane* went to *Kenſington* that Afternoon; and no ſooner had he ſaid ſo, but Mr. *Poſſette* came in, who told me the ſame, and I aſk'd him to ſpeak with Mr. *Briane*'s Wife; and he told me ſhe was ſo weak, that I could not ſerve her with the Order. Then I aſk'd to ſee Mrs. *Poſſette* his his own Lady; he likewiſe told me ſhe was ſick, and could not be ſpoke to; ſo I ſhew'd him the Original Order, and left the Copy with himſelf, for his Lady and Mr. *Briane*'s Lady, and forthwith went to *Kenſington* to ſerve the Order upon Mr. *Briane*; but not meeting with him after a great deal of Inquiry, I left with his Maid-Servant at his Lodgings, and ſerved her with it, who told me ſhe would give it her Maſter that Night, who waited the King's coming from *Hampton-Court*. This Morning I went again to his Houſe at St. *James*'s, and ſent for his Servant, who told me his Maſter did not come to Town laſt Night, ſo I believe his Maid had given him the Order.

Mrs. *Elianor Vaneſſe*.] I inquir'd at every Houſe in *Kenſington*, where I was inform'd there

there were *Dutch* People, and could not know of any of them of any ſuch Woman; but the Earl of *Albemarle*'s Steward, and the Porter of the Lodge going into *Hide-Park (Kenſington)* promiſed me they would enquire after her, and ſend me Word if they heard of ſuch a Perſon.

Then *George Starkey* being called in and Sworn, ſaid as followeth, I ſerved *William Bayly* with the Order of this Houſe, to attend as a Witneſs this Day, he told me he was under a Courſe of Phyſick, and could not ſtir out without Danger of his Life, but any other Day he would attend.

Then a Certificate under the Hands of *John Hutton* and *Theodore Colladon*, Doctors of Phyſick was produc'd, and read as follows:

We whoſe Names are underwritten, Doctors of Phyſick, do certify, that *Mary* Wife of *Simon de Brienne*, and *Judith* Wife of *Peter Perſode*, have been for ſome time, and are at this preſent ſo extraordinary ill in Bed, that neither of them can remove from thence, without Danger of their Lives. Witneſs our Hands at their Dwelling-Houſe in St. *James*'s Street, betwixt ten and eleven of the Clock in the Morning, the 21ſt Day of *February*, $\frac{1699}{1700}$.

John Hutton.
Theodore Colladon.

After

After which, the following Order was made, *viz.*

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That Doctor *John Hutton* and Dr. *Theodore Colladon*, (who ſign'd a Certificate delivered and read this Day, of the Illneſs of Mrs. *Mary*, Wife to *Simon de Brienne*, and *Judith* her Siſter, Wife to Mr. *Peter Perſode*) do attend this Houſe to morrow at eleven of the Clock, to atteſt upon Oath, what they have certify'd.

Then the Form of the Oath formerly given to Witneſſes, being read out of the Journal 23. *Jan.* 1691, the ſame was agreed to with ſome Alteration, and is as followeth.

You ſhall true Anſwer make to all ſuch Queſtions as ſhall be aſk'd you by this honourable Houſe, in relation to the Charge of Adultery in the Bill brought in by the Duke of *Norfolk*, againſt the Dutcheſs of *Norfolk*, with Sir *John Germaine*. You ſhall declare your whole Knowledge of this Matter; and ſhall ſpeak the Truth, and nothing but the Truth, as well upon the Matter as you ſhall be examin'd on behalf of his Grace the Duke of *Norfolk*, as upon ſuch Interrogatories as ſhall be exhibited on behalf of the Dutcheſs of *Norfolk*, without Favour or Affection to either Party. So help you God, and by the Contents of this Book.

Then the Council being call'd in, they for the Duke having opened the Nature of their Evidence, Mrs. *Elianor Vaneſſe* was Sworn, and being aſk'd ſome Queſtions by the Duke's Council, ſhe appeared to be a *Dutch* Woman, and could not well underſtand *Engliſh*, and an Interpreter being offered by the Duke's Council, Council withdrew, and the Houſe agreed, that the Dutcheſs's Council ſhould have an Interpreter alſo; and the Council being call'd in again, were told ſo by Order of the Houſe, and that they might proceed to any other Witneſs. The Duke's Council deſir'd that they might begin with Mrs. *Vaneſſe*, and withdrew.

Then the following Orders were made.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That the Agents for the Duke of *Norfolk*, do forthwith deliver a Liſt of the Witneſſes they intend to examine on the Behalf of the Duke of *Norfolk*, to the Dutcheſs of *Norfolk*, or her Agents.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that to morrow at twelve of the Clock, this Houſe will proceed to hear Council and Witneſſes for the Duke of *Norfolf*, to make out the Allegations in his Bill, at which Time the Dutcheſs of *Norfolk*'s Council ſhall be preſent.

It

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that *Daniel Germaine*, *Simon Briane*, alias *de Brienne*, *Anna Maria Briane*, alias *de Brienne*, *Judith Poſſette*, alias *Perſode*, — *Goutaken*, — *Pontack*, *Suſanna Barrington*, — *Hugonee*, Mrs. *Keemer*, *Joſeph Barger*, *William Lane*, *John le Fountaine*, *Jonathan Browne*, — *Hatter*, and — *Welburne* do, and they are hereby requir'd to attend this Houſe to Morrow at Eleven of the Clock in the Forenoon, as Witneſſes to be examin'd on the Behalf of the Duke of *Norfolk*.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that *William Allen* and *John Maitland* do, and they are hereby requir'd to attend this Houſe, on Service of this Order, as Witneſſes to be examin'd on Behalf of the Duke of *Norfolk*.

Die Jovis 22 *Februarii*, 1699.

The Houſe being inform'd, that Sir *Theodore Colladon* and Dr. *Hutton* attended, as order'd Yeſterday.

Sir *Theodore Colladon* being call'd in, and ſworn, ſays, he ſaw Mrs. *de Briane* Yeſterday; ſhe was very ill fainting in Bed, and ſcarce able to live. Mrs. *Perſode* he alſo viſited, who having miſcarry'd by a Fright,

could not ſtir out of her Bed without Hazard of her Life.

Dr. *Hutton* being call'd in, and ſworn, ſays, he viſited Mrs. *Mary de Briane* this Morning; ſhe hath been ſick three Months, is in an ill Condition of Health, and it will endanger her Life if ſhe comes abroad. Mrs. *Perſode* is very ill; ſhe cannot come out of her Bed, without endangering her Life.

Then the Council were call'd in for the Duke and Ducheſs of *Norfolk*.

The Dutcheſs's Council mov'd to have the Witneſſes Chriſtian Names, and Place of their Abode; and ſaid they had not the Names 'till this Morning.

Then the two Interpreters took the following Oath:

YOU ſhall well, truly, and faithfully interpret between the Houſe and Elianor Vaneſſe, *the Witneſs, touching the Matters ſhe ſhall give in Evidence.*

Council being withdrawn, the Houſe agreed to tell the Duke's Council, that they might proceed to examine Witneſſes that were nam'd the Day before. And that if the Dutcheſs's Council had any Exception, they might now make it againſt them or their Teſtimony, and that the Duke's Agents ſhould give the Chriſtian Names of their

their Witneſſes, and as much as they can of the Places of their Abode to the Agents of the Dutcheſs.

The Council being call'd in again, were told what was agreed by the Houſe touching the Witneſſes. Then the Duke's Council proceeded, and call'd in *Elianor Vaneſſe*, who being aſk'd ſeveral Queſtions by the Duke's Council, the Interpreter aſk'd them of her in *Dutch*, and ſhe anſwered again to the Interpreter, and he declar'd her Anſwers to the Houſe in *Engliſh*.

Nicholas Hauſeur, being ſworn in like manner, gave his Teſtimony in *French* by an Interpreter.

Then Council being withdrawn, the following Orders were made, *viz.*

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that the Short-hand Writers, who took the Witneſſes Evidence, to dictate to a Clerk, in order to be tranſcrib'd what the Witneſſes have ſaid, and that the Examinations, with the Short-hand Writers Books and Papers, are to be ſeal'd up, and kept by the Clerk until the next Day the Houſe ſhall proceed on this Matter, and then what is tranſcrib'd, ſhall be read at the Bar in the Preſence of the Witneſs.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that on *Saturday* next at Twelve of the Clock,

this Houſe will proceed to hear Council and Witneſſes for the Duke of *Norfolk*, to make out the Allegations of his Bill; at which Time the Dutcheſs of *Norfolk*'s Council ſhall be preſent.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that *Simon Briane*, alias *de Brienne*, ſhall be, and is hereby requir'd to attend this Houſe, on *Saturday* next at Eleven of the Clock in the Forenoon, to be examin'd as a Witneſs on Behalf of the Duke of *Norfolk*.

Die Veneris 23 *Februarii*, 1699.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that *James Berger*, *Suſanna Barrington*, *Frances Knight*, and *James Mackdonnell* ſhall, and they are hereby requir'd to attend this Houſe to Morrow at Eleven of the Clock in the Forenoon, as Witneſſes to be examin'd on the Behalf of the Duke of *Norfolk*.

Die Sabbati 24 *Februarii*, 1699.

The Houſe being mov'd, that Mr. *Simon Briane*, or *de Brienne*, may be ſent for in Cuſtody, for not having attended according to the Order of this Houſe, as a Witneſs for the Duke of *Norfolk*.

Here-

Hereupon *Thomas Kellet* was call'd in, and being ſworn, ſaid to this Effect, *viz.*

I went to the Houſe of the Dutcheſs of *Norfolk*, and enquir'd for Mrs. *Suſanna Barrington*, and if ſhe liv'd there; a Man ſaid, No. I aſk'd if he could tell me where ſhe was, he ſaid, No.

Then I went to ſerve Mr. *Simon Briane*, or *de Brienne*; and being at his Houſe, enquir'd for him; his Man ſaid, his Maſter was gone to *Kenſington*: He took the Order, and ſaid he would give it his Maſter.

I went to the Lord *Cutts*'s Houſe, and aſk'd for one Mr. *Berger*, but could not hear of him. I went to my Lord's Stables, and aſk'd his Coach-man for Mr. *Berger*; he ſaid he liv'd in *Hedge-Lane*; there I went and found his Wife, and deliver'd the Order to her; ſhe ſaid ſhe would have nothing to do with it, and that Mr. *Germaine* gave him Bread. I ſaw him Yeſterday, and he told me he had been with the Duke of *Norfolk*, and would attend him again.

I went again to the Dutcheſs of *Norfolk*'s Houſe to ſerve Mrs. *Barrington*, and one told me ſhe was ſeen look out of a Window, and another told me ſhe was at Home; ſo I could not ſerve the Order on her.

The Houſe being inform'd upon Oath, that a Copy of the Order for Mr. *Simon Briane*, or *de Brienne*, to attend this Houſe, as a Witneſs for the Duke of *Norfolk*, was

left with his Servant at his dwelling Place, and he not attending this Houſe, it is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that the Serjeant at Arms, attending this Houſe, do forthwith attach the Body of the ſaid *Simon Briane*, or *de Brienne*, and bring him to the Bar of this Houſe, to anſwer for his Offence; and this ſhall be a ſufficient Warrant on that Behalf.

To the Serjeant at Arms attending this Houſe, his Deputy or Deputies, and every of them.

The Houſe was inform'd, that one *Hugonee*, Servant to the Lord *Haverſham*, being ſummon'd, was ſince gone away. Of which the Lord *Haverſham* gave the Houſe an Account to this Effect, That he receiv'd a Letter from the Duke of *Norfolk*, wherein he deſir'd his Servant might attend the Houſe this Day; and his Lordſhip writ an Anſwer that he ſhould. But when his Lordſhip aroſe in the Morning, his Servant was gone away, and told the Landry Woman or Servants, he had a Quarrel, and was going for *Holland*.

The Council and Witneſſes being call'd in for the Duke of *Norfolk*, the Dutcheſs's Council preſent, and M. *Vaneſſe* at the Bar, the tranſcrib'd Depoſitions from the Short-hand Writer were read to her, and ſhe ſign'd them.

In

In like manner *Nicholas Hauſeur*'s Depoſition was read, and he ſign'd it.

Then the Council proceeded, and examin'd *William Bayly*, and his Depoſition was taken in Short-hand, was left with the Clerk to be tranſcrib'd, in order to be read to him on *Monday* next.

Council withdrew, and it was order'd, that *William Bayly* do attend this Houſe on *Monday* next.

Then the following Orders were made.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that on *Monday* next at Twelve of the Clock, this Houſe will proceed to hear Council and Witneſſes for the Duke of *Norfolk*; at which Time the Dutcheſs of *Norfolk*'s Council ſhall be preſent.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, that Mr. Secretary *Vernon* be deſir'd to ſend to this Houſe on *Monday* next at Eleven of the Clock, the Books wherein the Entries of Paſſes are in the Months of *January*, *February*, and *March*, One Thouſand Six Hundred Ninety One.

Die Lunæ 26 *Februarii*, 1695.

The Council for the Duke and Dutcheſs of *Norfolk* were call'd in, and the Examination

tion of *William Bayly* was read to him, and he being croſs examin'd by the Dutcheſs's Council, and that Examination read to him, he ſign'd them.

Then *John Curry* was call'd in, and ſworn, ſaid, I went to ſerve Mr. *La Fountaine* and Mr. *Lane* with the Order for their Attendance.

Mr. *La Fountain's* Wife lay in; he ſaid he could not be forc'd to come, he was not a Subject of *England*, and is the Lady Dutcheſs's Servant.

Mr. *Lane* gave me a Letter to the Clerk of the Parliament, which was read; and in it he deſir'd farther Time, not having Horſes, nor could ride faſt.

The Dutcheſs's Council mov'd for Copies of the Depoſitions taken, and Time for the Dutcheſs to be heard, and withdrew. Then the following Orders were made, *viz.*

An Order for both Parties to have Copies of the Depoſitions, and ſo much as relates to that Matter in the Journal.

The other for hearing the Dutcheſs by her Council, on *Monday* next, and the Duke's Council then to be preſent.

DEPO-

DEPOSITIONS of *Elianor Vaneſſe.*

Die Jovis 22 Februarii, 1699.

ELianor *Vaneſſe*, ſworn, depoſeth as followeth, *viz.*

Queſtion. Do you know Sir *John Germaine* and the Dutcheſs of *Norfolk*?

Anſwer. Yes.

Q. How long have you known them?

A. Two Years.

Q. When did you firſt come acquainted with them?

A. Sir *John Germaine*'s Sifter hir'd me for a Cook-Maid the Summer after the King came for *England.*

Q. In what Month of that Year?

A. In *May.*

Q. Did you live with either of them as a Servant-Maid?

A. I liv'd two Months with my Lady-Dutcheſs in Sir *John Germaine*'s Houſe.

Q. How long did you live in the Houſe with them?

A. 'Till they went to *Vaux Hall.*

Q. How long was the Dutcheſs in the Houſe before they went to *Vaux-Hall?*

A. Two Months.

Q. Where was that Houſe?

A. Juſt over *Spring-Garden.*

Q. At the Time when the Lady Dutcheſs liv'd with Sir *John Germaine*, what Company and Converſation did they keep with one another, and in what manner?

A. Like Man and Wife.

Q. Where was it the Lady Dutcheſs liv'd when you came firſt into *England?*

A. In Sir *John Germaine*'s Houſe.

Q. Where did ſhe live then?

A. The Dutcheſs liv'd there then.

Q. How long continu'd ſhe there?

A. About two Months.

Q. How did they live together during that Time?

A. Like Man and Wife.

Q. Saw you them in Bed together at any Time, at that Place in the Cock-pit?

A. Yes.

Q. How often?

A. Many times, as often as Man and Wife ſhe ſaw them in Bed, but did not put them in Bed in thoſe two Months.

Q. Did you think any otherwiſe but that they had been Man and Wife?

A. She did not at firſt, but afterwards ſhe did; and then they kept her within Doors, for fear ſhe ſhould tell it.

Q. Whither

Q. Whither did the Dutcheſs go after that two Months?

A. To *Vaux-Hall.*

Q. How long did ſhe live there?

A. About two Years.

Q. Did Sir *John Germaine* uſe to come and keep Company with the Dutcheſs there?

A. Yes, he us'd to come and dine with her ſometimes, and he lay there ſometimes.

Q. What Converſation had Sir *John Germaine* with the Dutcheſs at *Vaux-Hall?*

A. They convers'd together as Man and Wife.

Q. How long?

A. Sometimes one Night, ſometimes two.

Q. How often did he uſe to come thither?

A. Sometimes twice, ſometimes three times a Week, and ſometimes but once.

Q. Had they one Bed or two?

A. But one.

Q. What Name did the Dutcheſs go by at *Vaux-Hall?*

A. By the Name of the Lady *Beckman.*

Q. What Kin was Sir *John Germaine* pretended to be to the Lady Dutcheſs?

A. Her Brother, my Lady Dutcheſs ſaid ſo.

Q. Did

Q. Did you go with them to *Vaux Hall*, or not?

A. She went with the Lady Dutcheſs.

Q. Whoſe Servant was you there?

A. Lady Dutcheſs's.

Q. How long did you ſerve the Lady Dutcheſs?

A. She ſtaid with her 'till ſhe went to *Mill-bank.*

Q. How came you to leave their Service?

A. They ſent her away upon the Account of the late Tryal.

Q. Who went with you?

A. Mrs. *Suſannah*, Chamber-maid to the Lady Dutcheſs, and Mr. *Nicholas*, that was Gentleman to Sir *John Germaine.*

Q. What's his Name?

A. Nicholas Hoſier.

Q. Who took care of your Paſſage?

A. *Nicholas Hoſier.*

Q. Whither was you order'd to go?

A. To *Holland* to the *Hague*, they paid her in full, and promis'd fifty Livers beſides.

Q. Was any Part of it paid, and by whom?

A. She receiv'd it in four Quarters from his Brother *Philip* at the *Hague.*

Q. Whoſe Brother?

A. Sir *John Germaine*'s Brother.

Q. Who

Q. Who hir'd you when you came to *England?*

A. Mr. *Briane's* Wife.

Q. What Kin is ſhe to Sir *John Germaine?*

A. His Siſter; and they promis'd if matters did not go for the Dutcheſs, ſhe would come to *Holland* herſelf, and take her into her Service again.

Q. Have you ſeen Sir *John Germaine* and the Dutcheſs in Bed together at *Mill-bank?*

A. Once or twice.

Q. How long had the Lady Dutcheſs liv'd at *Mill-bank* e'er you left her Service?

A. Nine or ten Weeks.

Q. How came you to ſee them in Bed together.

A. By reaſon none was ſuffer'd to come into the Room, the Bed-Chamber, but ſhe and another Maid, to bring Neceſſaries, as Water to waſh their Hands, and to clean the Room.

Q. Did you ſee them at their undreſſing when they went to Bed?

A. She undreſs'd them herſelf, and ſaw them in Bed.

Q. Give an Account how you two came to be admitted into the Chamber, and what you ſaw there.

A. She help'd them to Bed, and ſaw them go to Bed together.

Q. Saw you them next Morning?

A. Yes.

Q. On

Q. On what Occaſion came you into the Chamber in the Morning?

A. She came with Chocolate, and Water to waſh their Hands.

Q. Did you ever ſee Mr. *Nicholas Hoſier* there?

A. Yes: He did the Buſineſs that ſhe did when ſhe could not be preſent; he was *Valet de Chambre.*

Q. Was he *Valet de Chambre* to Sir *John Germaine*, or to the Dutcheſs?

A. He belong'd to the Dutcheſs at *Vaux-Hall*, and afterwards to Sir *John Germaine.*

Q. Came he to Sir *John Germaine* before the Lady Dutcheſs went to *Vaux-Hall*, or not?

A The Dutcheſs was at *Vaux-Hall* when he came to Sir *John Germaine.*

Q. Who liv'd with the Dutcheſs at *Vaux-Hall?*

A. Sir *John Germaine*'s Siſter.

Q. Who hir'd you?

A. Mrs. *Briane*, Mr. *Briane*'s Wife.

Q. Was there no other Relation of Sir *John Germaine*'s that liv'd there beſides?

A. Mrs. *Judith.*

Q. What Mrs. *Judith*, what's her Name?

A. She does not know.

Q. What Kin was Mrs. *Judith* to Sir *John Germaine.*

A. His Siſter.

Q. Did the Dutcheſs uſe to go to no other Place?

A. None

A. None but to the neighbouring Gardens to gather Flowers.

Q. When you were at *Mill-bank*, did you ever ſee the Dutcheſs's Father?

A. She hath been ſeveral times at the Dutcheſs's Fathers, and the Lady Dutcheſs told her Father and Mother that ſhe brought her from *Holland*; ſhe dreſs'd three Diſhes of Meat by order of the Dutcheſs.

Q. Who was the Lady Dutcheſs's Father, where did he live?

A. He liv'd at *Mill-bank*, but could not tell his Name: The Lord *Peterborough*, ſhe ſays, but could not think on't before now.

Q. When ſhe liv'd with *Germaine* at the Cock-pit, was there no other that liv'd with them at that Time?

A. No Body.

Q. Did Sir *John Germaine*'s Brother-in-Law or Siſter lye in the Houſe at any time?

A. Yes, when they came firſt to *England* they us'd to lye there.

Q. Name them?

A. Mr. *Briane*, and his Wife.

Q. Did you ſee any of Sir *John Germaine*'s Relations at any time in the Room, during the time that the Dutcheſs was in Bed with him?

A. Yes, Mr. *Briane* and his Wife.

Q. Was Sir *John Germaine* in Bed at that time with the Dutcheſs?

A. Yes.

Elianor

Elianor Vaneſſe *croſs examin'd.*

Q. Was it at *Vaux-Hall* that the Lady Dutcheſs ſaid that *Germaine* was her Brother?

A. Yes.

Q. Did the Dutcheſs tell you that Sir *John Germaine* was her Brother?

A. She gave it out among the Neighbours, but never told her ſo.

Q. Was you Cook-maid?

A. She was hir'd for Cook-maid.

Q. Did you continue to act as Cook-maid?

A. Yes, at *Vaux-Hall.*

Q. Was you at the Cock-pit?

A. She us'd to clean the Rooms; and nobody was ſuffer'd to come into the Room but ſhe, Mrs. *Suſannah*, and *Nicholas.*

Q. Was there no other Woman in the Houſe but you?

A. Yes, Mrs. *Suſannah.*

Q. Where did you ſee Sir *John Germaine* and the Lady Dutcheſs in Bed?

A. At *Vaux-Hall.*

Q. When came you from *Holland?*

A. About five or ſix Weeks ago.

Q. Where have you been ſince?

A. She does not know any Place or Street in *London.*

Q. How came you over?

A. About

A. About a Year and half ago ſhe met *Nicholas* at *Amſterdam*: She aſk'd him how he did, and if he had got a Place; he anſwer'd no, but he believ'd he ſhould very ſoon have one in *England.*

Q. Who ſent for you, or brought you over from *Holland* this laſt time.

A. She met Mr. *Nicholas* about a Year ago, and ſaid, ſhe had a great mind to go and live in *England* again; and he ſaid he would get a Place for her.

Q. Who ſent for her?

A. Does not know.

Q. When you came over, who paid your Paſſage, and firſt took Care of you?

A. Nicholas hath given her what ſhe ſpent ſince.

Q. Who brought you to Town, and who furniſh'd you with Money, and where did you Land, what Houſe did you firſt come to?

A. She Landed at *Graveſend.*

Q. Who receiv'd her there; or, when ſhe came to Town, brought her to any Place to lodge at?

A. Nicholas brought her to a Place where ſhe was ſecure.

Q. What Place is it?

A. She does not know, ſhe was never in *London.*

Q. Did not you live at *Vaux-Hall*, and at Sir *John Germaine*'s Houſe in the Cock-pit?

A. She

Elianor Vaneſſe *croſs examin'd.*

Q. Was it at *Vaux-Hall* that the Lady Dutcheſs ſaid that *Germaine* was her Brother?

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Q. Was you Cook-maid?

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A. She us'd to clean the Rooms; and nobody was ſuffer'd to come into the Room but ſhe, Mrs. *Suſannah*, and *Nicholas.*

Q. Was there no other Woman in the Houſe but you?

A. Yes, Mrs. *Suſannah.*

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A. Nicholas brought her to a Place where ſhe was ſecure.

Q. What Place is it?

A. She does not know, ſhe was never in *London.*

Q. Did not you live at *Vaux-Hall,* and at Sir *John Germaine*'s Houſe in the Cock-pit?

A. She

A. She was no further than thoſe Houſes, ſhe means ſhe was never in the City of *London.*

Q. Where is the Houſe ſhe has been at theſe ſix Weeks?

A. She can't tell whereabouts it is.

Q. Whether was you not ſent for back from *Holland* to be a Witneſs?

A. No, knew nothing of it 'till about — Now about eight or nine Weeks ago.

Q. In what Street is the Houſe you have been at?

A. I can't tell.

Q. How long is it ſince you went into *Holland*, ſince you left the Dutcheſs's Service?

A. About eight Years ago.

Q. Did you never tell any Body the Occaſion of your going over?

A. Yes, in *Holland*, but not here.

Q. To whom did you tell it?

A. To a great many.

Q. Know you any of thoſe to be in *England* that you told it to?

A. Does not know any.

Q. Did you ever diſcover this matter of your own Account, or was you aſk'd to do it?

A. I ſaid I would tell the Truth if I were aſk'd.

Q. Can you name the Perſon that aſk'd you?

A. Mr. *Nicholas.*

Q. Had

Q. Had you any Diſcourſe about this matter about eight Weeks ago?

A. When I aſk'd Mr. *Nicholas* if he could get me a Place in *England*, I told him I would ſay the Truth.

Q. What Diſcourſe had you with Mr. *Nicholas* about it?

A. I aſk'd Mr. *Nicholas* whether there was any Danger of any ſuch Thing; he ſaid he knew nothing of it.

Q. Did you ever diſcover that you were ſent out of the Way into *Holland*?

A. No.

Q. Whether you and this Gentleman that interprets, have not talk'd moſt of this matter before you came hither?

A. No.

Q. Who have you talk'd to about this matter, ſince you came into *England*, beſides *Nicholas*?

A. Nobody.

Q. Are you a ſingle Woman or a marry'd Woman?

A. A ſingle Woman.

The Duke's Council.

Q. Was it your Buſineſs to look after the Chamber, to keep the Door conſtantly, or on what Occaſion?

A. I us'd to waſh the Dutcheſs's Cloaths, and bring to Sir *John Germaine*'s Houſe, and keep

keep the upper Rooms clean, where Sir *John Germaine* lay.

Q. Did *Suſan* go over with you into *Holland*, and come back with you?

A. Mr. *Nicholas* brought me into a Room where ſhe was kept, and I ſtay'd a-while with her.

Q. Did *Suſan* go with you, and come with you again?

A. Nicholas, and *Suſan*, and I, were in a Room together, and Mr. *Germaine* came every Night when the Houſe was broke up and told us what paſs'd.

Q. Did *Suſan* go to *Holland* with you? Whether did you go before *Nicholas*, or with him?

A. Sir *John Germaine* order'd *Nicholas* and ſhe to go into *Holland*, and *Nicholas* went with her.

Signum

Elianor Vaneſſ

DEPO

DEPOSITIONS of *Nicholas Hauſeur.*

Die Jovis 22 *Februarii*, 1699.

Nicholas Hauſeur Sworn.

Q. WHether he knows Sir *John Germaine* and the Dutcheſs of *Norfolk*?

A. Yes, Sir, I underſtand, I know both.

Q. How long have you been acquainted with Sir *John Germaine*, and upon what Occaſion?

A. The firſt he came to know him was in *Suffolk-Street.*

Q. Whether ever he was a Servant to him?

A. Yes, I was a Servant to him there.

Q. When was it you firſt came into Sir *John Germaine*'s Service?

A. It was above half a Year before King *James* went away.

Q. Did you live with Sir *John* or the Dutcheſs?

A. With Sir *John Germaine.*

Q. Where did he dwell at that time?

A. He had Lodgings at the *Golden-Ball.*

Q. Was you with him afterwards when he was at the Cock-pit?

A. Yes,

A. Yes, and I liv'd with him at the Cock-pit too.

Q. At that time did you know the Dutchess of *Norfolk*?

A. I knew her, becauſe they told me ſhe was ſo.

Q. Was there any Lady that liv'd with Sir *John Germaine* at the Cock-pit?

A. At that time there was Mrs. *Brienne* Sir *John Germaine*'s Siſter.

Q. Was there any body elſe us'd to lodge there?

A. There was none there but her at firſt

Q. Was there any other afterwards?

A. Yes, about two or three Months after he was there; but I don't juſtly know how long afterwards.

Q. Who was there then?

A. There was his Siſter, by Name Mrs *Judith Germaine.*

Q. Do you know any Thing about the Dutcheſs of *Norfolk* at that Time?

A. Yes.

Q. What Converſation had Sir *John Germaine* and the Dutcheſs of *Norfolk*?

A. She was in the Houſe, and they eat and drank together, and lay together.

Q. Where was that?

A. At Sir *John Germaine*'s Houſe next the Cock-pit.

Q. How came you to know they lay together?

A. I

A. Becauſe I was his *Valet de Chambre*, and help'd to undreſs and put him to Bed.

Q. Where was the Dutcheſs at that Time?

A. The Dutcheſs was ſometimes a-bed, and ſometimes not, according as he came Home, early or late.

Q. How long was the Dutcheſs with Sir *John Germaine* at the Cock-pit?

A. She was at the Cock-pit before I came there.

Q. Whether he went from Sir *John Germaine*'s Service, after he came to live there?

A. He left his Service ſeveral times.

Q. When was the firſt time he went from Sir *John Germaine*'s Service?

A. The firſt time he left his Service, was in *Suffolk-Street*.

Q. How long was it before he came to live with him again?

A. He came into his Service again the Summer after this preſent King came into *England*.

Q. What Time of the Summer was it?

A. He can't juſtly tell that.

Q. Whether the Dutcheſs was there before he came to the Cock-pit, or not?

A. She was there before.

Q. How long continu'd ſhe there?

A. About fifteen Days after he came to Sir *John Germaine*.

Q. In what manner did Sir *John Germaine* and the Dutcheſs live there, during thoſe fifteen Days?

A. He ſays he hath already explain'd that before; he uſed to undreſs him, and put him a-bed, together with the Dutcheſs

Q. Where did the Dutcheſs live after ſhe went from Sir *John Germaine*'s Houſe?

A. She went and dwelt at *Vaux-Hall.*

Q. By what Name did ſhe go when ſhe was at *Vaux-Hall?*

A. She went by the Name of my Lady *Beckman.*

Q. Whether he went with her, or continu'd in Sir *John Germaine*'s Service?

A. He went with my Lady Dutcheſs for ſome Time, by Sir *John Germaine*'s Order; he was ſometimes with the one, and ſometimes with the other; ſometimes one paid him, and ſometimes the other.

Q. Whether Sir *John Germaine* went to *Vaux-Hall?*

A. He came there ſometimes; he has ſeen him there ſeveral Nights.

Q. Whether he ſtay'd all Night there?

A. Sometimes.

Q. Whether he was alone, or any Body was with him?

A. There was ſome Body lay with him.

Q. Who upon his Oath?

A. Madam the Dutcheſs, Madam *Beckman.*

Q. How

Q. How know you that?

A. Becauſe he undreſs'd him when they lay together.

Q. How often was that?

A. He can't juſtly ſay how often, but it was ſeveral times.

Q. What Service was he in when he went out of *England*, and upon what Occaſion?

A. He left Sir *John Germaine*'s Service at that Time, when the Tryal was depending between the Duke and Dutcheſs of *Norfolk*.

Q. By whoſe Order did you leave that Service?

A. He deſir'd Leave.

Q. How came you to leave that Service at that Time?

A. Becauſe he was afraid he ſhould be oblig'd to come and ſpeak the Truth of what he had ſeen.

Q. Whether any went with him, and who went from their Service when he went?

A. There were two Servants of the Dutcheſs's.

Q. What was their Names?

A. One is call'd *Suſanna Barrington*, and the other *Elianor Vaneſs*.

Q. Whither did they go?

A. He was order'd by Sir *John Germaine*, to hire Lodgings for them, where they ſhould be unknown and private.

Q. What was the Reaſon why they ſhould be in Private?

A. He knows no other Reaſon, but the Difference before the Parliament, between the Duke and Dutcheſs of *Norfolk*; he was oblig'd to take the Lodgings, becauſe the Wind was contrary for them to go for *Holland*, and took private Lodgings for them, by the Order of Sir *John Germaine*.

Q. What became of *Suſan Barrington* after that?

A. She ſtay'd about three Weeks with him, and then Sir *John Germaine* came and fetch'd her back again, and where he carry'd her, he does not know.

Q. What became of *Vaneſs*, and your ſelf afterwards?

A. When the Wind favour'd, we paſs'd the Seas.

Q. What Time of the Year was it?

A. It was about *Eaſter* that he came into *Holland*.

Q. What Time he went from his Service, and was order'd to be private?

A. It was about the Time of the Tryal.

Q. Whether he hath any Paper under Sir *John Germaine*'s Hand for his Diſcharge? We do not ask it, but only to refreſh his Memory.

This Paper was dated Eighth of February, *One thouſand ſix hundred ninety two; reckoning the Year to begin the firſt of* January.

Whe-

Whether that was the Time he left the Dutcheſs's Service?

A. Yes, about ſix or eight Weeks after he went to Sea.

Q. Where did you ſtay in the mean Time?

A. In the *Minories*, near the *Tower*.

Q. How came you to ſtay there ſo long, after you were out of Service, before you went beyond Sea?

A. Becauſe the Wind was contrary.

Q. Who went over with him, what became of *Elianor Vaneſs*?

A. She went with him to *Holland*.

Q. Who bare her Charges thither?

A. Sir *John Germaine* gave him ſeven Guineas to pay for the Expences that he was at here, and to croſs the Sea.

Q. How long after that he continu'd in *Holland*, before he came into *England*?

A. He did not ſtay long in *Holland*, but went into his own Country.

Q. How long was it before you return'd to *England*?

A. The Summer following.

Q. Was he ſent for over into *England*, and by whom?

A. Yes, Sir *John Germaine* ſent to him often, by himſelf, and by his Brother in *Holland*.

Q. When he came over in the Summer

following (in Ninety Two) whoſe Service did he come to?

A. He return'd to Sir *John Germaine.*

Q. Where did he live at that Time?

A. Where he lives at preſent, at the Cock-pit.

Q. Whether after he came back in the Year One thouſand ſix hundred ninety two, he obſerv'd any Converſation between Sir *John Germaine*, and the Dutcheſs?

A. Yes, he ſays he ſaw them come together at their Houſe.

Q. What more?

A. He again then ſaw them a-bed together.

Q. Where?

A. In the Houſe of Sir *John Germaine.*

Q. How often may that be?

A. He can't juſtly tell how often.

Q. Whether it was often or not?

A. No, he can't ſay very often.

Q. When was the laſt time he ever ſaw them a-bed together?

A. The laſt time he ſaw them a-bed, was not at the Cock-pit.

Q. Where then?

A. It was at the Dutcheſs's own Houſe, where, as he believes, ſhe lives ſtill.

Q. Whereabouts in the Town?

A. It is upon a Corner of the Park, near my Lord of *Oxford*'s.

Q. How

Q. How long ago ſince he ſaw them laſt a-bed together?

A. He can't juſtly tell the Time, it was about two or three Months before he went away.

Q. Did he mean the firſt, ſecond, or third Time?

A. It was two or three Months before he went away the laſt Time.

Q. In what Year did he go away the laſt Time?

Let him look upon any Note he hath to refreſh his Memory.
Accordingly he look'd upon a Paper.

A. 'Tis the twenty ſeventh of *April*, One thouſand ſix hundred ninety ſix.

Q. Did you go away then the laſt Time?

A. Yes, he ſays, that 'twas the laſt Time he left his Service.

Q. How long before that, did you ſee them a-bed together?

A. He ſays it was about two Months and a half before he left the Service.

Q. When my Lady Dutcheſs liv'd at *Vaux-Hall*, whether he can name any Body elſe that was a Servant in the Houſe at that Time?

A. Yes, there was *Elianor Vaneſs.*

Q. What Servant was ſhe?

A. She look'd to the Kitchen.

Q. Whether he has ſeen her in the

Chamber when the Dutcheſs was a-bed there?

A. Yes, very often.

Q. How came ſhe that was Cook-maid, to be in the Chamber?

A. He ſays he can't tell the Reaſon, or what Buſineſs ſhe had there, but there ſhe was for one Thing or other, beſt known to herſelf, he does not know.

Q. Whether when the Dutcheſs was at *Vaux-Hall*, any Relations of Sir *John Germaine*, came to her there?

A. Yes, they would come and ſee her.

Q. Who were they?

A. Mrs. *Brienne*, and Mrs. *Judith*; he ſays he does not remember that Mrs. *Brienne* has lain there, but Mrs. *Judith* has.

Q. Where it was, and upon what Occaſion, he met with *Elianor Vaneſs*, after he carry'd her over into *Holland*?

A. I met her in *Amſterdam*.

Q. Whether he came over into *England* with her, and upon what Occaſion?

A. I met her at *Amſterdam*, and ſhe ask'd me what Buſineſs I had there, whether I had a Maſter, and I ſaid no.

Q. When was that?

A. About a Year and half, to his Remembrance.

Q. Whether he came over with her the laſt Time?

A. Yes, he came over into *England* with her

her in Company, about ſix or ſeven Weeks ſince.

Q. Where has ſhe been ſince ſhe came into *England?*

A. She was in Lodgings.

Q. Where?

A. He put her into private Lodgings, that ſhe ſhould be ſecure.

Q. Why did he put her into private Lodgings?

A. Becauſe he was afraid, in the Circumſtances that he is now, that ſome Body might give them ſome Affront, or do them an Injury, and therefore he thought it beſt to be in ſome Place of Security.

Q. What particular Reaſon had he, why he ſhould take private Lodgings, or have that Fear upon him?

A. He ſays, when he was laſt here, Sir *John Germaine* came up one Night in a great Paſſion, and ſwore, and ſaid, ſome Body would betray him.

Q. I deſire he might repeat that again?

A. Sir *John Germaine* came one Night up Stairs, and ſaid, that *Nicholas*, this Rogue, would betray him.

Q. Who was that?

A. He ſays, 'twas one *Nicholas Ruſhett*, that ſerv'd him, or both, he can't tell, but he was in his Service, that he heard theſe Words, and that he thought in theſe Circumſtances,

cumſtances, the ſecureſt Way would be to take private Lodgings.

Q. What brought him into *England* the laſt Time? Whether he was ſpoke to, to come, and for what Purpoſe?

A. He ſays, that about two or three Years ago, he happen'd to meet with a Friend, and he deſir'd him, if he heard of a good Place for him in *England*, to let him know of it, for he would go and ſerve there again.

Q. Whether he was ſpoke to, to come over, or was *Elianor Vaneſs* ſpoke to, and what was the Occaſion?

A. My Lord ask'd him if he would ſpeak the Truth, and do him any Service, and whether he would bring this Girl along with him.

Q. Who was it that ſpake to him?

A. My Lord Duke, and my Lord *Howard.*

Q. When was that?

A. It was about a Year ago.

Q. Where was he at that Time?

A. He was in *London.*

Q. Did he go over of his own Accord, or was he ſent into *Holland*, who it was that ſent for him over, and for what?

A. It was a Friend of his Acquaintance, that he deſir'd, in caſe he heard of a Place, to ſend for him.

Q. Who ſent for *Elianor Vaneſs* over?

A. He

A. He ſays, that after he had promis'd my Lord Duke, and Lord *Howard*, to ſpeak the Truth of what he knew, they deſir'd him, that if he met with *Elianor Vaneſs*, to deſire her to come over, and ſpeak the Truth of what ſhe knew.

Q. How long after did you meet with *Elianor Vaneſs?*

A. 'Tis about twelve Months ſince I met with her.

Q. When was the firſt Time that he ſpake to *Elianor Vaneſs*, about her coming over to ſpeak the Truth?

A. 'Tis about a Year ſince.

Q. How long is it ſince they reſolv'd to come over?

A. About twelve Months.

Q. Whether he was acquainted with *Elianor Vaneſs*, before he met with her in Sir *John Germaine*'s Service?

A. He ſays never.

Q. You ſay you went from Sir *John Germaine*'s Service in *Suffolk-Street*, and you ſay, when you came to him again, he liv'd in the Cock-pit. Did you find *Eleanor Vaneſs* there then?

A. He ſays he found her at the Cock-pit.

Q. When he waited on Sir *John Germaine* in his Chamber, who waited on the Dutcheſs in her Chamber?

A. There was *Suſanna Barrington*, and *Elianor Vaneſs.*

Q. But who waited upon her in her Chamber?

A. Suſanna Barrington did, to dreſs her.

Q. Whether he had ſeen any of Sir *John Germaine*'s Relations in the Chamber, when this Lady and Sir *John Germaine*, were a-bed together.

A. Yes.

Q. Name them.

A. He ſays, he ſaw Mrs. *Brienne* and Mr. *Daniel Germaine* there.

Q. Did you ſee Mrs. *Judith* there?

A. He does not remember that he ſaw Mrs. *Judith* in the Room, while they were a-bed together, but the other he hath ſeen when they were a-bed together, but at different Times.

Q. Whether ever he hath ſeen the Dutcheſs at any other Place?

A. He has been at the Chapel with her, and elſe-where.

Q. Where?

A. At my Lord *Peterborough*'s, and in her own Houſe.

Croſs-examin'd.

Q. I deſire he may reduce this to a Certainty, what Time he went out of *England*,

England, and look upon his Note again?

He look'd again upon his Note, and 'twas dated Eighth of February, *One thouſand ſix hundred ninety two.*

Q. How long after this he went out of *England?*

A. He went away as ſoon as the Wind was favourable.

Q. Can he recollect the Time?

A. He ſays 'twas ſometime before *Eaſter*, for he came into *Holland* about *Eaſter*.

Q. When he told his Grace the Duke of *Norfolk* and Lord *Howard*, he would be true to them, whether he was in any Service at that Time?

A. No, he was in no Service at that Time.

Q. How long had he been out of Employ?

A. He has none yet.

Q. But how long had he been out of Employ or Service, before he made this Propoſal to the Duke or my Lord *Howard?*

A. He ſays he went away about the twenty ſeventh of *June*.

Q. Is it the ſame Year his Paper ſpeaks of, that he ſpake to my Lord Duke?

A. No, 'twas not; he ſpake to my Lord Duke about twelve Months ago.

Q. But

Q. But how long had he been out of Service when he ſpake to my Lord Duke; when did he leave Sir *John Germaine* the laſt Time?

A. 'Tis about three Years and half ago; 'twill be four Years in *June* next.

Q. Has he been in any Service ſince that Time?

A. No, he hath not.

Q. How has he liv'd ſince then?

A. He ſays, he has ſomething of his own in his own Country, upon which he may ſubſiſt ſome Time.

Q. I think he ſaid, he ſaw Sir *John Germaine* and the Dutcheſs in Bed together, in the Houſe where ſhe now lives?

A. Yes.

Q. Then I deſire he will tell, if he knows any of the Dutcheſs's Servants, that were about her at that Time?

A. Yes, he does.

Q. Then, that he will name them?

A. Henry Keymer.

Q. What's become of him?

A. They told him he was dead, and there was *Suſan Barrington.*

Q. I deſire he will tell of ſome of the Servants that liv'd with the Dutcheſs at that Time, beſides that Perſon that is dead and the other which is gone beyond-Sea, as they ſay?

Mr. North

Mr. Northy *anſwer'd*, We don't ſay ſhe is gone beyond-Sea.

A. He does not know any other.

Q. Then, that he will tell what Month he ſaw them in Bed together?

A. He can't remember the Month or the Day; but if they will aſk him the Reaſon why he remembers it, he will tell it them.

Q. If you can come to any Certainty about the Time of the Year, or the Month?

A. He can't ſay the Month, or any particular Time.

Q. What Servant he ſaw in the Houſe, or who let him in?

A. He had himſelf the Key of the lower Room, and could come in when he pleas'd

Q. Whoſe Servant was he at this Time he ſpeaks of; whether he was a Servant to the Dutcheſs, or to Sir *John Germaine?*

A. He was Servant to Sir *John Germaine?*

Q. He was ſaying he could tell a Reaſon to fix the Time; let him recollect himſelf of the Time?

A. He can't remember the Time, but he came into the Room to bring a Clyſter, and he was deſir'd to ſtay without a little, 'till my Lady Dutcheſs got up.

Q. That

Q. That he may be poſitive whether he had a Key to the lower Room of the Dutcheſs's Houſe.

A. He ſays he had a Key of the Door that goes into the Park, and he could come into the Houſe by it, for it was the Key of the Houſe.

Q. What Servant was it that brought him up, for that Key only let him into the lower Room?

A. Sometimes *Suſan Barrington*, and ſometimes *Henry Keymer*.

Q. What Room the Lady Dutcheſs lay in?

A. 'Tis a Room that looks into the Park.

Q. 'Tis not a Ground Room, I ſuppoſe?

A. No, 'tis up Stairs.

Q. How many Stories?

A. He can't tell what Degree it was.

Being aſk'd that Queſtion again, upon the Reading his Depoſitions, he ſays, he can't tell how many Stories; but if you pleaſe, he will deſcribe the coming into the Room, as well as he can.

Q. Deſcribe the coming into the Room?

A. That as you come upon the left Hand there is a Way to go into the Dutcheſs's Room; when you have paſs'd the little Chamber-Door, you go into a Place full of *China*; and after that, you come to the Dutcheſs's Bed-Chamber: On the other Side

Side, going up Stairs, there is a little Room, where *Suſan* told him ſhe lay; and afterwards you come into a Room where the Chimney is, as he thinks, on the right Hand; and he thinks there are two Windows that look into the Street, he is not very certain; and in the Room upon the left Hand, there is a Door into a great Room, and from that great Room, you can go into my Lady Dutcheſs's Room. It was ſo at that Time, to the beſt of his Remembrance.

Q. How many Rooms are there upon a Floor?

A. There are a matter of four Rooms upon a Floor.

Q. Whether he has ſpoke with any Body that he knows is acquainted with this Houſe, ſince he was examin'd here before?

A. He ſays, he has ſpoke to no Body ſince, that has given him any Account of the Houſe.

Q. Which Side of the Park does the Windows of my Lady Dutcheſs's Room look into?

A. Towards the Pond where the Braſs Statue is.

Q. Does the Bed-Chamber look towards the Braſs Statue?

A. He durſt not go to look out at the Window, for fear of being diſcover'd, but he could ſee the Water.

Q. Whether

Q. Whether he knows the Horſe-Guards?

A. Yes.

Q. Whether he knows *Arlington* Houſe?

A. Yes.

Q. Whether the Window does look towards *Arlington* Houſe, or the Horſe-Guards?

A. He hath been there ſeveral Times; but 'twas not his Buſineſs to go to the Window, but when he was in the Room he could ſee the Water.

Q. Whether he could tell which way the Window look'd?

A. He did not live in the Houſe, but went there ſometimes upon Meſſages; and when he was there, 'twas not his Buſineſs to go to the Window, but he could ſee the Water when he was in the Room.

Q. Whether the Window was on that Side of the little Door that he came in, or on the other Side?

A. Upon the left Hand coming in; he ſays, he has explain'd himſelf as to the entering in, and he can ſay no more to it.

Q. Was it one or two Pair of Stairs that the Dutcheſs lay?

A. He can't be poſitive whether one or two Pair of Stairs.

Q. Who brought him up that Time he brought the Clyſter?

A. Suſan Barrington.

Q. Wh

Q. Who told him at the Cock-pit, 'twas the Dutcheſs of *Norfolk?*

A. Sir *John Germaine*, herſelf, and the whole Houſe told him ſo.

Q. Did he before that Time know the Dutcheſs?

A. No.

Q. Did you never ſee other Women there beſides this Lady?

A. Yes.

Q. Did you know all the reſt that you ſaw there?

A. No, he did not know them all.

Q. Whether he was not told, the reſt of the Women were of great Quality too?

A. He never was told ſo, nor did he inform himſelf whether they were or no.

Q. At *Vaux-Hall*, and at the Cock-pit, I think he ſpake as if he undreſs'd Sir *John Germaine* and the Dutcheſs; whether he undreſs'd them both?

A. Not the Dutcheſs.

Q. What Year it was they were at *Vaux-Hall.*

A. It was before he went to *Ireland*, and after he came from *Ireland*, but he can't preciſely tell the Time.

Q. Whether he has been in any Service ſince One thouſand ſix hundred ninety ſix, when he left Sir *John Germaine*'s?

A. No.

Q. Whether

Q. Whether, when he came about a Year ago into *England*, there was Application made to him, in order to make a Diſcovery, or whether he offer'd of himſelf to make it?

A. He never did offer himſelf.

Q. Who was it that firſt aſk'd him the Queſtion?

A. 'Twas my Lord *Howard*.

Q. Where did you meet my Lord *Howard*, and upon what Occaſion?

A. He ſays, that 'twas that Perſon that he had addreſs'd himſelf to, to get him into Service here, that was the Occaſion of their meeting together.

Q. Did you know the Lord *Howard* before?

A. No.

Q. Where was the Place they met?

A. He call'd him to his Houſe.

Q. My Lord, or that Perſon?

A. He ſays, that Perſon to which he addreſs'd himſelf to get a Place, told him he had found one.

Q. Name that Perſon.

A. Richardſon.

Q. Where does he live?

A. I don't know.

Q. Were you acquainted with him before?

A. Yes.

Q. Whe

Q. Where had you been acquainted with him?

A. At *London*, 'tis a Woman.

Q. Whether he can deſcribe the Room, or the Furniture of the Room where this noble Lady and Sir *John Germaine* were a-bed together, where ſhe lives now?

A. He cannot remember any thing of the Furniture.

Q. Was it hung or wainſcoted?

A. He ſays he can't tell, and yet he was there often.

Q. Pray who was the Clyſter for?

A. For Mr. *Germaine.*

Q. Where was it to be adminiſter'd?

A. A-bed.

Q. Who was a-bed?

A. My Lady Dutcheſs was a-bed to.

Q. Was it to be adminiſter'd at the ſame Time as he and the Dutcheſs were a-bed together?

A. No.

Q. Was the Dutcheſs there?

A. He laid the Syringe to the Fire-ſide till ſuch Time as the Dutcheſs 'roſe.

Q. Apothecaries are exact in Point of Time in making their Bills.

A. He ſays, I compos'd the Clyſter my ſelf, but he did not compoſe it at the Dutcheſs's Houſe, but at Mr. *Germaine*'s.

Q. Did you ſtay with Sir *John Germaine* till all was over?

A. No

Q. Whether, when he came about a Year ago into *England*, there was Application made to him, in order to make a Diſcovery, or whether he offer'd of himſelf to make it?

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Q. Did you ſtay with Sir *John Germaine* till all was over?

A. No

A. No, as ſoon as he had given it him, he went Home to Mr. *Germaine*'s Houſe.

Q. Whether he pretends to ſpeak of any other Time that he ſaw the Dutcheſs in Bed with him at her Houſe in *Duke-ſtreet* but when he carry'd him the Clyſter?

A. Yes, my Lord, he ſays he has.

Q. Let him tell the Times and Circumſtances.

A. He ſays he can't very well remember the Times, but he had ſometimes Buſineſs there to bring and carry Letters.

Q. When was that Time of the Clyſter

A. It was about two Months before h left them.

Q. Was that the laſt Time he ſaw the together?

A. That was the laſt Time.

Q. How long before that did he ſe them together?

A. Long before that Time in the ſam Houſe.

Q. He ſays, he has ſeen Sir *John Ge maine* and the Dutcheſs in Bed togeth elſewhere, did he never ſee them in B together at the *Mill-bank?*

A. He has ſeen them there two or thr times a-bed together.

Q. When did your Maſter order you t prepare the Clyſter?

A. He had Orders to come and wait f Mr. *Germaine* at the Dutcheſs's, and th

Mr. *Germai*

Mr. *Germaine* coming to the Dutcheſs's ate, he order'd him to bring the Clyſter ext Morning.

Q. At what Time he came the next Morning?

A. He had Order to bring it at nine of he Clock, and he brought it at the ap-ointed Hour, and he waited in the little oom where *Suſanna* was, 'till he was all'd in.

Q. He ſays he waited for Sir *John Ger-aine*, by his Orders, at the Dutcheſs's, ill it was late; which of the Dutcheſs's ervants did he keep Company with?

A. He ſays he remembers very well it as Mr. *Keymer*.

Q. Whether that Time that he ſaw r. *Germaine* and the Dutcheſs in Bed to-ther at *Mill-bank*, if it was after the firſt ime he was ſent out of *England*, when the ll was depending before the Lords?

A. 'Twas after.

Q. What Year did you ſee them a-bed gether at *Mill-bank*?

A. It was a Day or two before Mrs. *Da-nant* dy'd. A Day or two before ſhe 'd, Mr. *Germaine* came to *Mill-bank*, and y'd there about eight Days.

Nicola Hauſeur.

DEPO-

DEPOSITIONS of *William Bayly*

Die Sabbati 24 *Februarii*, 1699.

William Bayly ſworn.

Q. D'YE know Sir *John Germaine* a the Dutcheſs of *Norfolk*?

A. Yes.

Q. Was you Servant to Sir *John G maine*?

A. Yes.

Q. In what Capacity?

A. Three Years I wore his Livery, a three Years I was his Steward.

Q. When did you firſt come to live wi him?

A. Three Weeks before the King w Crown'd.

Q. Was there any Converſation betwe Sir *John Germaine* and the Dutcheſs *Norfolk*; d'ye know that they liv'd to ther, or kept Company one with anoth

A. No, I never knew them live to ther, but ſeen them keep Company to ther, but never ſaw any Inſivility betwe them.

Q. Where ſaw you them in Compa together?

A. I

A. I ſaw them in Company in my Maſter's Houſe.

Q. How long ago?

A. About five Years ago.

Q. Where did your Maſter then live?

A. He liv'd then where he does now.

Q. Did the Dutcheſs of *Norfolk* ever lie there?

A. Never, to my Knowledge.

Q. What was the Time ſhe uſually came there?

A. Commonly in an Afternoon.

Q. How often have you ſeen her there?

A. Two or three times.

Q. At what Time did ſhe uſe to come, and at what Time did ſhe go away again?

A. She us'd to come there about four or five a Clock in the Afternoon, and might ſtay there about two or three Hours.

Q. You are upon your Oath, and pray tell whether you ever ſaw them in Bed together?

A. By all that's Good I never ſaw them in Bed together?

Q. Did the Lady Dutcheſs uſe to come thither maſk'd or unmaſk'd?

A. She us'd to come maſk'd, but put it off when ſhe came into the Houſe.

Q. Who us'd to come with her?

A. There us'd to come Mr. *Keemer* with her.

Q. What Company? did no other uſe to come with her to Sir *John Germaine's* Houſe?

A. Yes, another Servant, Mr. *Carter.*

Q. Who was in the Room with them in Sir *John Germaine's* Houſe?

A. Mr. *Keemer* ſtay'd commonly with them all the Time they din'd, and after Dinner, the other Servants and I were in the next Room to them; and commonly when they had Occaſion, they would call Mr. *Keemer.*

Q. Was there no other Servant but Mr. *Keemer* that they us'd to call upon?

A. Yes, a Gentlewoman, Mrs. *Suſan Barrington.*

Q. Have you ſeen her lately?

A. No, not theſe ſix Months.

Q. D'ye know if your Maſter us'd to go to the Dutcheſs's Houſe?

A. Yes, I have heard ſo, but I can't ſay ſo poſitively.

Q. Did you ever go with them to the Dutcheſs's Houſe?

A. No, but I have gone with them as far as the *Horſe-Ferry.*

Q. When was the laſt Time you ſaw them together?

A. I can't tell; I have been out of my Maſter's Service theſe four Years.

Q

Q. How long before you left your Maſter's Service, d'ye think it was that you ſaw them together?

A. I can't tell; but I think it might be about half a Year.

Q. He has gone with his Maſter as far as the *Horſe-Ferry*, pray then let him be aſk'd where he left his Maſter?

A. I left him at the *Horſe-Ferry*.

Q. What Orders did your Maſter give you when you left him?

A. He order'd me to go home, and keep the Houſe.

Q. D'ye know whither your Maſter was gone then?

A. I may judge he went to the Dutcheſs; but I can't ſwear he went there.

Q. Did Sir *John Germaine* come home to Bed that Night?

A. Some Nights he came, and ſome he did not.

Q. Did you carry Cloths to him at any Time?

A. I have carry'd Cloths for him to Mr. *Keemer*, the Dutcheſs's Servant.

Q. Where did *Keemer* live, when you carry'd the Cloths to him?

A. In a little Street going to the *Bowling-Alley*.

Q. Who did he live withal?

A. He told me he liv'd with the Dutcheſs,

but he was a Houſe-Keeper, and had a Houſe there.

Q. Did you always carry Cloths to Mr. *Keemer* for your Maſter?

A. Sometimes I carry'd his Cloths to Mr. *Keemer*, and ſometimes Mr. *Keemer* came to me for them.

Q. Did you apprehend that your Maſter was then at the Dutcheſs's, or at Mr. *Keemer*'s?

A. I can't tell where he was; how can I tell? I anſwer as punctually as I can.

Q. When *Keemer* came to you for Cloths, what Account did he give to you, where your Maſter was?

A. He gave me no Account.

Q. Whether did you ever ſee the Dutcheſs and your Maſter together at any other Place, but at his own Houſe?

A. Never.

Q. When you carry'd the Cloths to *Keemer*'s, did your Maſter lie at home that Night or not?

A. Sometimes he lay at home, and ſometimes he did not; many Times my Maſter has been at the Dutcheſs of *Mazareen*'s from four a Clock this Day, 'till twelve the next.

Q. Repeat it again; for that's material?

A. My Maſter has taken his Chair at his own Back-door, at four a Clock on a *Satur-*

day

day, and not come home 'till *Sunday* at twelve a Clock.

Q. Where has your Maſter been at that Time, when he ſtay'd out all Night.

A. At the Dutcheſs of *Mazareen*'s; and when he loſt his Gold, he has ſent home to me for more Gold.

Q. Did he ever ſend to you for any Cloths when he was there?

A. Never.

Q. D'ye know where he was when he ſent to you for Cloths?

A. No, indeed.

Q. D'ye know *Nicholas Hoſier?*

A. Yes, I know him very well; I ſaw him here juſt now.

Q. Did you know him when he waited on Sir *John Germaine?*

A. Yes, he ſucceeded me, and I ſucceeded him again.

Q. You was Foot-man when you went to Sir *John Germaine*; when was that, and what Year did you leave off your Livery, and ſerve him as his Steward?

A. I can't tell.

Q. He ſucceeded *Hoſier*, and *Hoſier* ſucceeded him; pray let it be aſk'd him, at what Time he came into his Maſter's Service, when he ſucceeded *Hoſier?*

A. 'Twas about the ſame Time that the Tryal was here before.

Q. How long was it ere *Hosier* return'd again to serve Sir *John Germaine?*

A. To the best of my Knowledge it was three Years; for I receiv'd and pay'd Money for my Master, and *Hosier* was away all that Time; *Hosier* won't deny it, if he were call'd in.

Q. You say that you succeeded *Hosier* at the Time when the Tryal was here, how long before that Time did you return to your Master's Service?

A. About three Weeks before the King was crown'd, I came to my Master, and serv'd him three Years, and wore his Livery; and he was pleas'd, after Mr. *Hosier* went away, to make me lay out his Money, to be Caterer for him, and to keep his Gold; and, to the best of my Knowledge, 'twas three Years before *Nicholas* succeeded me again.

Q. How long was it before he came back again to serve Sir *John Germaine?*

A. Before I saw him in my Master's House and that he took my Place from me, 'twas three Years.

Q. Did you not see Mr. *Hosier* in *England* before that Time that you went out of your Master's Service?

A. No, I beg your Lordship's Pardon, will recollect my Memory; for that as have a Soul to be sav'd, now it is come in to my Mind, my Master sent for *Nichol*

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into *Holland* about a Year before *Nicholas* did come over; my Maſter told me before he came, that he would ſend for *Nicholas* again, and that I and *Nicholas* ſhould have the Charge of his Houſe. *Nicholas* came over, and we had the Play at our own Houſe; *Nicholas* ſtaid there ſome Time, but he did not like his Buſineſs, and ſo he went away again, becauſe he could not have all the Money?

Q. About what time did *Nicholas* come into *England*, after the Tryal was before this Houſe?

A. I can't reſolve you.

Q. Had you no Certificate of Leave, or Diſcharge, when you left your Maſter's Service?

A. No, my Maſter was ſo kind, that he brought me immediately into the Exciſe, as ſoon as I was out of his Service.

William Bayly *Croſs-examin'd. Lunæ* 26. *Februarii*, 1699.

Q. When you carry'd the Cloaths to Sir *John Germaine*'s, was it the Time when you wore his Livery?

A. I carry'd no Cloaths to him when I wore his Livery.

Q. Had you any Diſcourſe with the Dutcheſs's Agents ſince *Saturday* Night?

A. No, I have not ſeen them, nor don't know them.

Q. He ſays he ſaw the Dutcheſs of *Norfolk* at the Cock-pit, at Sir *John Germaine's* Houſe where he now dwells; pray recollect yourſelf, that you may be poſitive as to the Time?

A. I can't reſolve you as to the Year, 'tis ſo long ago; I believe it is about five Years ago.

Q. Can you be poſitive that it is not more?

A. To the beſt of my Knowledge 'twas about five Years.

Q. Can you be ſo far certain, that you can ſay 'twas not more?

A. I can't ſwear it was more; but I believe it may be five Year more or leſs.

Q. You ſay you ſaw her two or three times there, was it all in one Year, near the ſame Time or Month, can you reduce it to any Certainty?

A. I believe it might be in Summer.

Q. All in one Summer?

A. Yes, I believe all in one, to the beſt of my Knowledge, there was never a Winter between the Time that I ſaw her firſt and laſt.

Q. Did you know the Dutcheſs of *Norfolk* before that Time that you ſaw her in your Maſter's Houſe, and took her to be the Dutcheſs of *Norfolk*?

A.

A. I did not know her before the Tryal was here

Q. Did you know her any Time after that Tryal, before the Time you ſaw her in Sir *John Germaine*'s Houſe?

A. I was not ſure that it was ſhe, only as I had it from Mr. *Keemer.*

Q. Then you don't undertake of your own Knowledge to ſay that it was ſhe?

A. I can't ſwear that 'twas ſhe, but as Mr. *Keemer* told me, I don't know whether I ſhould know her now or not, 'tis ſo long ſince I ſaw her, I believe it is five Years, if not more.

Q. Did you ſee her before or after you ſaw her at Sir *John Germaine*'s Houſe?

A. The firſt Time they told me 'twas ſhe, I met her in her Coach in the *Pallmall* with two other Gentlewomen with her, a little before the Tryal was here: I follow'd the Coach; and the Dutcheſs went into ſome Lady's Houſe in *Dover-Street*, and they told me the Dutcheſs was the firſt Woman that went out; this is the firſt Time that e'er I ſaw her, that I know of, 'till ſuch Time as *Keemer* told me 'twas ſhe.

Q. Whether do you know *Nicholas?*

A. I know him very well.

Q. Can you tell how long it is ſince he came laſt into *England?*

A. No, he has been here two or three Times in *England*, ſince I left my Maſter.

Q. How long before this Examination ſaw you him, or ſpoke with him?

A. I did not ſee him above theſe three Years.

Q. How long before you came hither as a Witneſs did you ſee him?

A. I have not ſeen him theſe three Years 'till I came hither to be a Witneſs, and did admire to ſee him here, that a Man that had got his Bread under his Maſter ſhould appear here againſt him, it is ſo ungrateful a Thing.

Q. How came it that you had ſo much Curioſity as to follow the Dutcheſs's Coach?

A. I had a mind to ſatisfy my own Humour.

Q. Do you know how *Nicholas* liv'd ſince he was out of his Maſter's Service?

A. No, I never ſaw him, nor had any Account of him at all, nor have ſeen him theſe three Years 'till now.

Q. Did you know when *Nicholas* and *Elianor Vaneſs* went out of *England*?

A. No, I neither knew when they went, nor when they came.

Q. Don't you know what Buſineſs he went out of *England* about, the Time you took his Place?

A. I know not the Buſineſs he went out of *England* upon.

Q. Did he at that Time tell you he was

was to get away to hide himſelf from coming hither?

A. No, I heard not one Word from him at the Time of his parting.

Q. What reaſon had you to ſay upon the firſt Sight of *Hauſeur*, that he was ungrateful for coming hither?

A. I ſhould think my ſelf ungrateful to eat a Gentleman's Bread ſeven Years, and to do him all the Spite and Malice I could.

Q. Repeat thoſe Words?

A. I ſhould think myſelf very ungrateful to proſecute, if I ſhould do any Harm to a Maſter that I had ſerv'd ſo many Years, I ſhould think myſelf very ungrateful, let him think of himſelf what he pleaſes.

Q. He added ſome other Words?

A. For any thing I know it is Spite and Malice.

Q. Where did you live, when you follow'd the Dutcheſs's Coach?

A. At Mr. *Germaine*'s.

Q. This Man is a Witneſs, and ſo is *Hoſier*, let him explain himſelf what he means, and wherein there is any Difference between him and *Hoſier*, for both are Witneſſes?

A. I ſay, I ſhould think my ſelf very ungrateful, if I would do any harm to a Man whoſe Bread I had eat ſo long, and had got ſo much Money under him.

Q. What harm does *Hosier* do, being a Witness against the Dutchess of *Norfolk*, what harm is that to Sir *John Germaine*?

A. I don't know.

Q. D'ye reckon it ungrateful to speak Truth to the Prejudice of a Master?

A. No, I would not speak an Untruth for all the Masters in the World.

Q. Where is there any Fault more in *Hosier* than in you?

A. I know not.

Q. Whether did *Elianor Vanesse* live with Sir *John Germaine* when you liv'd there.

A. I know not who she is.

Q. This Woman that was here as a Witness.

A. Yes, she liv'd there.

Q. What Time went she away from Sir *John Germaine*'s Service?

A. I know not, I cannot tell indeed.

Sign'd,

William Bayly.

Dit

Die Martis, 5 Martii, 1699.

Councel and Witneſſes being call'd in for the Dutcheſs of *Norfolk*, (and the Duke's Councel being preſent) the Examinations of the Witneſſes, taken Yeſterday in Short-Hand, and tranſcrib'd, were read to them, and Subſcrib'd, *(viz.)*

Die Lunæ, 4 Martii, 1699.

Thomas Hawkſworth *Sworn, Depoſeth as followeth.*

Q. DO you know *Elianor Vaneſs?* And did you live in the Dutcheſs of *Norfolk*'s Family?

A. I came to live with the Dutcheſs about *October*, 1691, and left her in *September*, about two Years within two Months: *Elianor Vaneſs* liv'd there when I liv'd there, and was Cook-maid.

Q. When did ſhe leave the Dutcheſs's Service?

A. About the Beginning of *January*, or the latter End of *December*, 1691.

Q. On what Occaſion went ſhe away?

A. She was turn'd away, to the beſt of my Remembrance, for keeping Company with *Dutchmen.* Q. Whe-

Q. Whether uſed ſhe any other Office but in the Kitchin? or had ſhe Acceſs to the Dutcheſs's Chamber?

A. Never; ſhe was not allow'd to come any higher than the firſt Floor: She us'd to clean that Room next the Street, one Pair of Stairs next the Door, and the Back-Parlour even with that, but was not ſuffer'd to come into the Dutcheſs's Chamber.

Q. Who waited upon the Dutcheſs in her Chamber?

A. Frances Knight; ſhe was conſtantly in the Dutcheſs's Chamber, and uſed to warm her Bed.

Q. You ſay that *Vaneſs* was allow'd to come no higher than the firſt Floor; explain that.

A. The Kitchen is under Ground backward; that Room *Vaneſs* clean'd was even with the Street, a Ground-Room; the Landry-maid clean'd the next Pair of Stairs.

Q. What was the Landry-maid's Name?

A. Suſan. She's dead.

Q. Do you know how long?

A. No.

Q. Did you ever ſee *Vaneſs* in the Dutcheſs's Chamber?

A. Never in my Life: I never heard ſhe was allow'd to come there.

Q. How long is it ſince you liv'd with the Dutcheſs?

A. About

A. About ſix or ſeven Years, or very near it.

Q. D'ye remember the Bill that was brought into Parliament, againſt the Dutcheſs while you liv'd there?

A. I came to the Dutcheſs the *October* before that Bill was brought in.

Q. Was *Vaneſs* turn'd away before that?

A. She was gone a Month, or thereabouts before that.

Q. D'ye remember the Month?

A. To the beſt of my Remembrance, 'twas about the latter End of *December*, or the Beginning of *January*.

Q. Was there any Stir about the *Dutch* Foot-Soldiers haunting *Vaneſs*?

A. I never ſaw any, but have heard the Servants ſay they did.

Q. Can you ſay what Time it was? Was it before or after the Bill?

A. Before I heard any thing of the Bill ſhe was gone.

Croſs-Examin'd.

Q. Where do you live now?

A. With Sir *Thomas Barnardiſton.*

Q. What Station were you in, when you liv'd with the Dutcheſs?

A. A Foot-man.

Q. Did you know *Hauſeur* then?

A. No.

Q. Where

Q. Where did the Dutcheſs live when you came firſt to her?

A. Upon the Row between the *Horſe-Ferry* and *Mill-bank.*

Q. How long did you live there?

A. A Fortnight, or thereabouts, not much more.

Q. Do you know where ſhe liv'd before?

A. No

Q. Do you know Sir *John Germaine*? And, on the Oath you have taken, did he ever come to the Dutcheſs's Houſe while you liv'd with her?

A. I never ſaw him in the Houſe; I never ſaw any unhandſome Thing by the Dutcheſs all the Time I liv'd with her.

Q. Did you never ſee Sir *John Germaine* with her?

A. No, never; and I had the Privilege of the firſt Floor and the ſecond Floor, and help'd to rub the Rooms, and ſometimes I rubb'd the Lodging-Room.

Q. Had you the Privilege of going up Stairs in the Morning?

A. No, it was one *Peacock* that rubb'd the Room above Stairs.

Q. Did you know *Vaneſs*? Was ſhe Servant to the Dutcheſs when you liv'd there?

A. Yes, ſhe was.

Q. Can you be poſitive as to the Time of her going away?

A. A

A. As near as I can tell, it was in the Beginning of *January*, 1692. I came in the *October* before, and ſhe went away the *January* following.

Q. Were you by when ſhe was diſcharg'd?

A. No.

Q. Who paid her her Wages?

A. I can't tell.

Q. Did you never ſee *Vaneſs* in the Dutcheſs's Chamber?

A. Never.

Q. Did you attend at the Dutcheſs's Chamber in the Morning?

A. Not conſtantly; we took it by Turns.

Q. Did you never attend in her Chamber when ſhe was a-bed?

A. No.

Q. Who was it of her Women that attended in her Chamber?

A. *Suſan* —— *Frances Knight*, and *Suſan Barrington.*

Q. When did you ſee *Suſan Barrington* laſt?

A. About five Years ago.

Q. Did ſhe conſtantly attend in the Dutcheſs's Chamber?

A. She and Mrs. *Knight* carry'd Coals conſtantly to warm the Bed.

Q. How old was you when you liv'd with the Dutcheſs?

A. About eighteen Years old.

Q. How old are you now?

A.

A. I think about Seven and twenty.

Thomas Hawkſworth.

Die Lunæ, 4 *Martii*, 1699.

Jonas Peacock ſworn, *Depoſeth as followeth.*

Q. DID you live with the Dutcheſs of *Norfolk* in 1691?

A. 'Tis ſix Years ſince I left her Service laſt *January*, or thereabouts; I liv'd two Years and a half with her, or thereabouts. I came in *Auguſt*, and ſtay'd 'till *January* two Years following, or thereabouts.

Q. Did you live with the Dutcheſs, when the firſt Tryal, as they call it, came on in Parliament?

A. Yes, I liv'd with her before and after.

Q. Did you know *Vaneſs*?

A. I knew one, whoſe Name was call'd *Lena.*

Q. What was her Buſineſs?

A. Below Stairs in the Kitchin; I never ſaw her in any other Room, but the outer-Room next to the Street; and I was there all the while ſhe was there, and after ſhe was gone.

Q. Did you ever ſee her in the Dutcheſs's Bed-Chamber?

A.

A. No; the Work ſhe was employ'd about, was dirty Work; I never ſaw her clean, but naſty, and could not eat the Victuals of her dreſſing.

Q. Was you there before *Vaneſs?*

A. Yes, I was in the Houſe ſome Time before her Grace came over, to help the Upholder, and to carry Looking-Glaſſes and Stands.

Q. Whence did ſhe come over?

A. She came to *Mill-Bank*, but I know not when ſhe came over; my Lady *Peterborough* order'd me to do what I did.

Q. Was you Servant there to the Dutcheſs before ſhe came over?

A. I never ſaw my Lady Dutcheſs before ſhe came there, except ſome Years before, at *Drayton*, when he liv'd with her.

Q. Who hir'd you?

A. I came there by the Lady *Peterborough*'s Order, and had my Victuals at my Lord *Peterborough*'s.

Q. Who hir'd you?

A. I was not hir'd at all.

Q. How long did you live at *Mill-Bank?*

A. I liv'd about two Years and a quarter, or ſomewhat more.

Q. What was your proper Buſineſs when you liv'd with the Dutcheſs?

A. When the Dutcheſs went abroad, I went with the Coach; and when ſhe ſupp'd

or

or din'd at home, I laid the Cloth, Forks and Spoons.

Q. Did you ever wait above Stairs?

A. Yes, I have waited above Stairs.

Q. Who waited upon the Dutcheſs in her Chamber?

A. Frances Knight, one *Suſan*, and one *Suſannah.*

Q. Upon your Oath, Did you ever ſee this Woman, *Helena*, go into the Dutcheſs's Bed-Chamber?

A. I never once ſaw her there all the Time I ſtay'd there: I rubb'd the Bed-Chamber with a long Rubbing-Bruſh; I never ſaw her there, nor above Stairs.

Q. Do you know at what Time it was ſhe came to live with my Lady Dutcheſs?

A. Yes; ſhe came while I was there.

Q. Did you live with the Dutcheſs, before ſhe came to *Mill-bank?*

A. I liv'd at no other Place with the Dutcheſs, but at *Mill-Bank* and at *Drayton.*

Q. D'ye know how *Vaneſs* left the Dutcheſs's Service? and why?

A. Yes, Upon Complaints of Diſorders, and her ill dreſſing the Victuals.

Q. What Diſorders?

A. There were Men came to the Door to enquire for her, twice or more.

Q. Did you ſee the Fellows?

A. Yes, I ſaw the Fellows; they came to the Door in the Duſk of the Evening, and

I

I acquainted the Dutcheſs with it, and told her Grace, I did not think it ſafe for her Houſe, becauſe I had the Charge of Silver Spoons and Forks.

Q. What Sort of Men were they?

A. One of them appear'd to me to be a Foot-Soldier, in a Blue Coat.

Q. In what manner was ſhe put away, or left the Houſe?

A. Upon theſe Complaints, the Dutcheſs ſaid ſhe would turn her away.

Q. Did you hear the Dutcheſs ſay ſo?

A. Yes.

Q. Was that before the Tryal at the Lord's Houſe, or after?

A. To the beſt of my Remembrance, it was before the Tryal, the latter End of *December*, or the Beginning of *January*, but I can't be poſitive; I think 'twas the latter End of *December*.

Q. Did ſhe go away before the Tryal or not?

A. I think before the Tryal, but I am not ſure: Yes, at the Time of the Tryal, I remember another Cook.

Q. Are you ſure of it?

A. Yes, I am ſure of it; 'twas the Coachman's Wife, one *Goſling*.

Q. D'ye know *Hauſeur*, or *Nicola*?

A. No.

Q. You liv'd at *Mill-Bank* two Years? D'ye know no ſuch Man?

A. I

A. I never heard his Name before; had no Acquaintance with him, nor neve saw him about the Houſe.

Croſs-examin'd.

Q. Where d'you live now?

A. Near *Huntington*; I board in a Houſ there.

Q. How long have you been out Service?

A. Ever ſince I left my Lady-Dutcheſs.

Q. How d'you live then?

A. I board in a Houſe; I follow no Em ployment, but live on my own, except teach Children, two, three, or four, out Charity.

Q. When came you to the Dutcheſs Service firſt.

A. I ſerv'd her about ten or twelv Years ago, but I can't remember the pr ciſe Time, 'tis ſo long ſince.

Q. How long did you live with h then?

A. I liv'd with her about half a Ye at *Drayton*, in *Northamptonſhire*: I we about *November*, and ſtay'd till *Lady-D* following.

Q. How long was it before you ca to live with her the laſt Time?

A. I can't tell.

Q. Yo

Q. You ſay you came to live with her about two Years and a Quarter: What Time was that?

A. I can't tell, but that may be eaſily found: I liv'd with her about ſix Years ago, or thereabouts.

Q. How long did you leave the Dutcheſs, after the Hearing came on in this Noble Houſe?

A. I don't know; it was about a Year and three Quarters, or two Years, I can't be poſitive.

Q. Was it after the Tryal began?

A. Yes; I think the Tryal began in *January*, and 'twas a Year after it began?

Q. Can't you be poſitive what Time you came to live with the Dutcheſs?

A. I came about *Auguſt* to *Mill-Bank*, but the Dutheſs was not come then; but the *October* following my Lady Dutcheſs came?

Q. Where did the Dutcheſs live then?

A. I don't know; I was at the Lady *Peterborough*'s; I help'd her Servants to carry Things, and to get Things ready.

Q. Did you know where the Dutcheſs liv'd then?

A. No; ſome ſaid ſhe liv'd in *Flanders*, others in *Holland*, and ſome in *France*.

Q. Was you never at *Vaux-Hall* while the Dutcheſs liv'd there?

A.

A. I was never there while the Dutche liv'd there, if ſhe did live there.

Q. Was you never there where ſhe di live?

A. When no Body liv'd there, I ha ſeen the Houſe where they ſaid ſhe d live.

Q. How long ago is that?

A. I know not how long ago; but 'twas the Summer-time.

Q. How came you to take Notice of th Houſe, more than the reſt of the Hou in *Vaux-Hall*? Who was it told you t Dutcheſs liv'd there?

A. I think it was one that was ——

Q. You ſaid the Dutcheſs went ſom times by Water: Did you go along wi her at that Time?

A. Yes, I did, with ſome other Co pany.

Q. Was you ever ſent to the Houſe, fetch Goods from thence?

A No.

Q. Who went with you, when you we with the Dutcheſs there?

A. One Mrs. *Boufflers*, and two or thr other Ladies.

Q. D'you know Sir *John Germaine*?

A. I never ſaw him, but in his Coac as he was going along the Street; I nev ſaw him in any Houſe, or any other Plac ſitting or going, but in his Coach.

Q. W

Q. Was you never at his Houſe?

A. I never was at his Houſe, nor at any Place where he liv'd.

Q. You ſay you were admitted to the Dutcheſs's Chamber, to rub the Room?

A. Yes, I was.

Q. Did you not ſee *Vaneſs* there?

A. No.

Q. Can you take it upon your Oath, that you never ſaw her there?

A. No, I never ſaw there, but I ſaw *Suſan Barrington* there.

Q. What Service did *Suſan Barrington* do there?

A. She help'd to dreſs and undreſs her Grace, and to mend Linnen, as I think.

Q. When ſaw you her laſt?

A. 'Twas about the 9th, 10th, or 11th of *Auguſt* laſt, at the *George-Inn* in *Huntingdon.*

Q. D'you know where ſhe liv'd then?

A. She was at *Huntingdon* then, and came with the Lady-Dutcheſs to take a Stage-Coach for *London:* She was at the *George-Inn*, in *Huntingdon*, I think, about *Auguſt* laſt.

Q. You ſay you liv'd at the Dutcheſs's Houſe at *Mill-Bank*, before the Dutcheſs came thither: Did *Vaneſs* come with her, or was ſhe hir'd after?

A. I think ſhe came with the Dutcheſs.

Q. D'ye know whence the Dutcheſs came, when ſhe came there?

A. As I have heard, ſhe came from *Vaux-Hall:* When my Lady-Dutcheſs went thither by Water the Summer after, I was told, that my Lady liv'd at ſuch a Houſe in *Vaux-Hall.*

Q. Didn't you know that my Lady-Dutcheſs liv'd at *Vaux-Hall?*

A. I never knew my Lady-Dutcheſs 'till ſhe liv'd at *Mill-Bank.*

Q. What Account had you, at the Dutcheſs's Houſe, where ſhe was then?

A. People ſaid ſhe was in *Flanders.*

Q. D'you know when *Vaneſs* came to live with the Dutcheſs?

A. I believe ſhe came to live with the Dutcheſs at *Mill-Bank.*

Q. D'you know when ſhe was diſcharg'd out of her Service?

A. I think 'twas the latter End of *December*, or the Beginning of *January*; I think ſo, but I don't ſpeak poſitively.

Q. Was you by, when her Wages were paid?

A. No.

Q. Have you ever ſeen her ſince?

A. No; I never ſaw her from that Hour to this.

Q. Where have you liv'd ſince you left the Lady-Dutcheſs's Service? And how? Have you any Eſtate?

A. I

A. I have a ſmall Matter to live on; I live near *Huntingdon*; I was born near there, 'tis my Native Place; I have liv'd there about four or five Years, or within ſeven Miles of that Place, or thereabouts.

Q. Did *Vaneſs* dreſs the Dutcheſs's Dinner when ſhe liv'd there? for it ſeems ſhe was not good enough to ſerve you.

A. Yes, ſhe did dreſs the Dutcheſs's Dinner, but I did not care to eat Victuals of her dreſſing.

Q. When did you firſt complain to the Dutcheſs, that Men follow'd *Vaneſs*? Or that you apprehended Danger by her being there?

A. I can't tell.

Q. Was ſhe diſcharg'd immediately after that?

A. I think ſhe was diſcharg'd in a very little Time after.

Q. You ſay there were ſome other Ladies that went with the Dutcheſs to *Vaux-Hall*; Can you name them?

A. Mrs. *Marſhal*, and ſome others, but I can't be poſitive.

Q. Did you know Mrs. *Briane*?

A No; I never heard her Name before.

Q. Did the Dutcheſs eat always at *Peterborough-Houſe*, or *Mill-Bank-Houſe*, as you call it?

A. Sometimes ſhe eat Abroad, and ſometimes at Home.

Q. Who dreſs'd her Victuals when ſhe eat at Home?

A. Lena.

Q. What d'ye mean by *Mill-Bank-Houſe*?

A. Peterborough-Houſe.

Q. Who did you hear ſay, the Dutcheſs liv'd at that Houſe at *Vaux-Hall*?

A. The Dutcheſs was going by Water, and told the Ladies then, that that was the Houſe ſhe had liv'd at, at *Vaux-Hall*; and walking in the Garden of the ſaid Houſe, told 'em ſo.

Sign'd,

Jonas Peacock.

Die Lunæ, 4 Martii, 1699.

Frances Knight *Sworn, Depoſeth as followeth.*

Q. HOW long have you liv'd in the Dutcheſs of *Norfolk*'s Family?

A. Twenty ſeven Years, or upwards.

Q. With whom did you live all that Time?

A. With the Lady Dutcheſs's Father, the Lady *Peterborough*, and the Dutcheſs.

Q. Did

Q. Did you live with the Dutcheſs when ſhe liv'd at *Mill Bank?*

A. Yes, I liv'd with her at her firſt coming there.

Q. Have you been with her ever ſince?

A. Yes.

Q. Did you know *Vaneſs* in the Dutcheſs's Family at *Mill-Bank*, and what Employ ſhe had there?

A. Yes, I know her very well: She was in the Kitchin.

Q Did you uſe to be in the Dutcheſs's Bed-Chamber, and about her Perſon.

A. Yes; I was the firſt in the Morning there, and the laſt at Night, conſtantly.

Q. Did you know *Eleanor Vaneſs* there? And did ſhe uſe to come into the Dutcheſs's Chamber?

A. She never came there.

Q. Where us'd ſhe to employ herſelf?

A. In the Kitchin.

Q. Was ſhe well enough in Cloaths, cleanly enough, and fit to come into the Dutcheſs's Chamber?

A. No, ſhe was not.

Q. What Time went ſhe away? And upon what Account?

A. My Lady put her away, becauſe Soldiers came and ask'd for her, and ſent for her to Ale-houſes about Ten a Clock at Night. I went up one Morning, and complain'd of her to my Lady-Dutcheſs, and

told her that Soldiers haunted her, ask'd for her, and ſent for her to Ale-houſes at ten a Clock at Night: And my Lady Dutcheſs ſaid, ſhe would not keep a Servant that kept ill Hours.

Q. Was this before the Tryal?

A Yes, my Lady put her away upon my ſpeaking this.

Q. Do you know why ſhe was put away?

A. Yes, for having Soldiers haunt her Company.

Q. Conſider well what you ſay.

A. Yes, my Lords; I ſpeak what my Conſcience tells me: Here I am before the Lords, I muſt ſpeak Truth.

Q. How far can you recollect your ſelf, if it was before the Tryal, or not, that ſhe was put away.

A. It was before the Tryal.

Q. How long?

A. I can't remember; I think it was about a Quarter of a Year, I can't tell exactly, but it was near upon.

Q. How near was you to the Dutcheſs? What was your Employment?

A. I help'd to get her to Bed, as her Chamber-Maid.

Q. Did *Eleanor Vaneſs* never undreſs her?

A. No, never in this World.

Q. Did you never know her come into the Dutcheſs's Chamber?

A. Never,

A. Never, never. Oh, fie! Never, indeed.

Q. D'ye know *Nicholas Hauſeur?*

A. I don't know him: There were many ask'd for Mr. *Keemer*, but I did not know them, for he has many Acquaintance.

Q. Did you know *Thomas Hawſworth*, your Fellow-Servant?

A. Yes, he came when my Lady came to *Mill-Bank*, Mr. *Peacock* came before, they were both Servants together.

Frances Knight *Croſs-Examin'd.*

Q. You ſay you liv'd Twenty ſeven Years and upwards with the Dutcheſs, and her Mother? Do you live with the Dutcheſs ſtill?

A. Yes.

Q. How long is it ſince you liv'd with her Mother?

A. After the Dutcheſs was marry'd, I came to live with her and my Lord-Duke.

Q. Have you been in her Service ever ſince.

A. Yes.

Q. After the Duke parted with my Lady-Dutcheſs, where did ſhe go to live?

A. She liv'd at *Mill-Bank*, and no where elſe that I know of.

Q. Came you to live with her ſoon after

her Marriage? And have you liv'd with her ever ſince? And did ſhe ever live at *Vaux-Hall*?

A. I never liv'd with her at *Vaux-Hall*.

Q. Then you have not liv'd with her ever ſince?

A. I have liv'd with her ever ſince, I have taken my Oath, and as near as I can tell you.

Q. Where did the Dutcheſs live before ſhe came to *Mill-Bank*?

A. She liv'd at *Vaux-Hall*.

Q. Did not you live with her there?

A. No; I broke my Leg, and was brought Home to her Mother's, and ſtay'd there a Twelvemonth; Mr. *Peters* was my Surgeon, he can tell it. I came here to ſpeak the Truth.

Q. Don't be angry.

A. No.

Q. Did you continue with the Dutcheſs 'till you broke your Leg?

A. Yes; and when I broke my Leg, I went Home to her Mother's.

Q. When left you the Dutcheſs, after ſhe parted with my Lord-Duke?

A. I left her at *Mill-Bank*.

Q. Do you know the Queſtion that's ask'd? When did you leave the Dutcheſs after ſhe parted with the Duke?

A. I know no ſuch Queſtions as you ask. I ſpeak the Truth, as well as I can.

Q. Where

Q. Where did my Lady-Dutcheſs go, when you left her?

A. I went away Lame, and could do her no Service.

Q. Where did you come to my Lady-Dutcheſs again, when you were well.

A. At *Mill-Bank.*

Q. Was you ever with her at *Vaux-Hall?*

A. I was not there, becauſe I was Lame.

Q. Was you ever at *Vaux-Hall?*

A. I told you I broke my Leg.

Q. Was you ever at *Vaux-Hall*, or not?

A. I tell you, I was Lame.

Q. Was you ever at *Vaux-Hall* at any Time?

A. I tell you I was Lame; I give you an Anſwer to your Queſtion. I tell theſe Noble Lords, that every Word I ſpeak is Truth.

Q. But you are Swore to ſpeak the whole Truth.

A. I ſpeak the Truth. Why ſhould you do ſo?

Q. Was you ever with the Dutcheſs at *Vaux-Hall?*

A. I was not able to be there with her.

Q. Was you there with her, or not?

A. I was not able to go thither.

Q. Was you never there?

A. I was not able to go thither.

Q. Was you ever there or not, with the Dutcheſs?

A. No, I never was at *Vaux-Hall* in my Life, but at *Mill-Bank* and *White-hall* I have. [*Memorandum*, in this Interlineation was alter'd, upon reading over her Examination, *Yes, I have been there, but I did not ſtay there.*]

Q. Was you ever there with the Dutcheſs, or not?

A. I was not there: I tell you I was not there, I was Lame.

Q. Was you never there with the Dutcheſs at any Time?

A. No, I tell you I was Lame: I was never there with the Dutcheſs.

Q. Where was the Dutcheſs before ſhe came to *Mill-Bank?*

A. That I can't tell.

Q. Where was ſhe when you broke your Leg?

A. I left her at *Mill-Bank*, with her Mother.

Q. Where did you find her, when you came again?

A. I found her at her Mother's.

Q. Can't you tell where ſhe was in the mean Time?

A. No.

Q. Was you never told by any of the Family, where ſhe was at that Time?

A. No.

Q. Did *Vaneſs* come to the Dutcheſs when ſhe liv'd at *Mill-Bank?*

A. Yes.

A. Yes.

Q. How long did ſhe live with her after?

A. I can't tell; but a ſhort Time.

Q. Do you know *Suſan Barrington*?

A. Yes.

Q. When did you ſee her laſt?

A. About three Weeks ago.

Q. Is ſhe not in the Dutcheſs's Service ſtill?

A. I'll tell you the Truth; She receiv'd a Letter from *Flanders*, acquainting her that her Mother was dead; ſhe was very much afflicted with it; and when the Dutcheſs came in, I told her Grace, that *Suſan* had receiv'd a Letter that her Mother was dead, and I did deſire my Lady to give her Leave to go to *Holland*, and ſhe's there.

Q. Did you ſee the Letter?

A. I ſaw it.

Q. Was it from her Mother, or from her Siſter?

A. Yes, 'twas from her Siſter, That her Mother was dead.

Q. Was *Suſanna Barrington* in the Dutcheſs's Service, when this Bill was depending?

A. No.

Q. How long is it ſince you receiv'd that Letter?

A. 'Tis about three Weeks ago.

Q. How long is it ſince ſhe went?

A. A Fortnight, to Day.

Q. Did you ſee her at any Time ſince theſe three Weeks?

A. No, No.

Q. Did you not live with her in the Houſe? And did you not ſee her?

A. She has been gone about a Week.

Q. D'ye know Mrs. *Judith?*

A. No.

Q. D'ye know Mrs. *Briane?*

A. I have heard of her Name, but am not acquainted with her.

Q. Had you any Diſcourſe with *Vaneſs*, when ſhe came to *Mill Bank*, to live with the Dutcheſs?

A. No, I never lik'd her Diſcourſe.

Q. Did you ever hear the Dutcheſs ſay that ſhe liv'd at *Vaux-Hall?*

A. No.

Q. Do you know Sir *John Germaine?*

A. I know him by Sight.

Q. Did you ever ſee him at the Dutcheſs's?

A. No.

Q. Did you never ſee him at *Mill-Bank*, or at her Houſe here?

A. No, my Lords, never.

Q. Did *Vaneſs* come along with the Dutcheſs when ſhe came to *Mill-Bank?* Or was ſhe hir'd after her Return?

A. She came after her Return to *Mill-Bank.*

Q. What Time went ſhe away?

A. I can't tell the Day; that's a hard Queſtion.

Queſtion. She went away on my ſpeaking to the Dutcheſs, that ſhe was haunted with bad Company.

Q. Did not ſhe dreſs the Dinner, when the Dutcheſs din'd at Home.

A. Yes; but ſhe never din'd at Home but very ſeldom.

Q. Can't you tell when *Vaneß* went away?

A. No.

Q. Did you know *Nicholas Hauſeur?*

A. No, I know no ſuch Man. There were many People came to Mr. *Keemer*, Lords Servants, and others, I don't know ſuch People.

Q. You have heard that the Dutcheſs liv'd at *Vaux-Hall.*

A. Yes.

Q. At what Time did ſhe live there?

A. I can't tell you; I was ſick in Bed.

Q. You may recollect, about what Time was it?

A. I was lame in *March*, this Month: I can't tell what Year.

Q. D'ye know what Houſe ſhe liv'd in?

A. Yes; 'twas one Sir *Thomas Groſvener*'s, at *Mill-Bank.*

Q. I ask you what Houſe ſhe liv'd at, at *Vaux-Hall?*

A. I know not.

Q. How came you to know the Dutcheſs liv'd at *Vaux-Hall?*

A. You ask what I can't tell you.

Q. You

Q. You daren't tell.

A. Yes, I'll tell the Truth, before all the Houſe of Lords.

Q. You ſaid ſhe liv'd at *Vaux-Hall?*

A. No, I never ſaid it.

Q. Whence came the Dutcheſs, when ſhe came to *Mill-Bank?*

A. She came from the Place ſhe did; I did not ask her the Queſtion, I durſt not be ſo bold.

Q. Can't you tell when ſhe came to *Mill-Bank?* Nor from what Place ſhe came?

A. I can't tell the Day when ſhe came, I don't ask from what Place People come.

Q. When did you know Sir *John Germaine* firſt?

A. I ſaw him firſt with my Lord-Duke there, at his Houſe in the *Square.*

Q. Did you never know him keep Company with the Dutcheſs?

A. No, but only with the Duke of *Norfolk* there; I ſpeak in the Preſence of God.

Sign'd,

Frances Knight.

Die

Die Lunæ, 4 *Martii*, 1699.

William White *ſworn*, *Depoſeth as followeth.*

Q. DID you live with the Dutcheſs of *Norfolk* for ſome Years paſt?

A. I liv'd with her ſince the firſt Week of the firſt Tryal, about ſix, or ſeven, or eight Years ago.

Q. What Care was there taken about the Dutcheſs's Door into the Park?

A. I generally went out the firſt in a Morning; the Door had two Bolts, a Croſs-Bar, and an Iron Chain; beſides, theſe I unbolted every Morning, and unbarr'd, when I went out early.

Q. Did you ever hear or underſtand that *Hauſeur* had a Key to that Door?

A. I never knew any thing of it, nor know not of what Uſe it could have been; for he could not come in 'till the Door was unbolted.

Q. Say poſitively, whether ever you heard that this Man had a Key to that Door.

A. I never heard it.

Q. Did you ever ſee him come in at that Door?

A. Yes.

Q. How?

Q. How? Upon what Occaſion?

A. I happen'd to be going out my ſelf, and to open the Door for him. His Buſineſs, I was told by my Lady-Dutcheſs's Maid, was, That ſhe had lent Money to a Man in *Holland*, and ſhe wrote a Letter, to be carry'd by this Man to her Siſter, to get the Money; and ſhe ſent another Letter by one *Bull*, to carry to *Holland*, to get the Money, as ſhe told me.

Q. Did you let him in?

A. I unbolted the Door, and let him in.

Q. Did you find that this Man us'd to come freely to the Houſe, at that Door, by any Key?

A. No, I never knew it.

Q. Who did he come to?

A. To *Suſan Barrington.*

Q. Did you ever ſee him above Stairs with her?

A. No, he might come in, and I not ſee it.

Q. Did the Dutcheſs or Servants ſay any thing that he had Leave to come in?

A. I never examin'd that; becauſe any Body that had Buſineſs, had Leave to come in, as Tradeſmen, and others.

Q. Did they tell you in the Houſe, that *Hauſeur* was at Liberty to come into the Houſe with a Key?

A. No, never.

Q. Had you ever any Diſcourſe with *Hauſeur*? *A.* I

A. I was one Day coming from *Change*, and met Mr. *L'Eſtrange*, and this *Hauſeur*. *L'Eſtrange* told me that he was ill of the Gripes. I told him, that the beſt Thing for it was Burnt-Claret; and he and I, and *Hauſeur* went to a Tavern in *Smithfield*: And while we were together, *Hauſeur* reflected upon his Maſter, ſaying, his Maſter had us'd him ill, and deſerv'd to be ill us'd. Mr. *L'Eſtrange* heard theſe and ſome more Words; and Mr. *L'Eſtrange* told me, that he ſpoke to that Purpoſe, he was reſolv'd to be reveng'd of his Maſter.

Q. What did he ſay of his Maſter?

A. He ſaid, his Maſter had us'd him very ill; he had many threatning Words; he ſaid his Maſter was an ill Man, and deſerv'd to be ill us'd, and the Time would come when he ſhould repent it.

Q. When did he ſay theſe Words?

A. 'Twas about *Michaelmas* two Years ago, or a Year ago, I can't tell which.

Croſs-Examin'd.

Q. You ſay, you liv'd with the Dutcheſs the firſt Week of the firſt Tryal; was *Vaneſs* there at that Time?

A. She was gone before I came.

Q. How long?

A. I can't tell; I never ſaw her there, to the beſt of my Remembrance, but have heard

heard there was ſuch a one in the Family.

Q. Did you know *Hauſeur*?

A. I ſee him come in at the Back-Door.

Q. Whoſe Servant was he then?

A. The firſt Time I did not know; but a little after, I was told he was Sir *John Germaine*'s.

Q. What Occaſion had he to come to the Dutcheſs's Houſe?

A. I know not, but about the Buſineſs of the Letter.

Q. How often did you ſee him there?

A. Two or three times, or more.

Q. With whom?

A. With *Suſan Barrington.*

Q. What was his Buſineſs with her?

A. About the Money, as ſhe told me. He went along with that Woman; ſhe ſent a Letter by him; and ſhe ſent Letters by ſome other *Dutchmen*, into *Holland*, about the Money.

Q. Did he aſk for any other Servant?

A. Not that I know of.

Q. Did you ſee him above Stairs with her?

A. I never ſaw them in any Apartment but that Place below, where the Lumber is, near the *Park*-Door.

Q. D'you know *Suſan Barrington*?

A. I know her very well.

Q. D'you know where ſhe is now?

A. Her

A. Her Mother dy'd about the 10th of *January*, and then I ſaw her all in Tears, and ſhe went away, after this Account of her Mother's Death.

Q. When did you ſee her laſt?

A. I have not ſeen her this Fortnight or Month, that I know of, that I could diſtinguiſh her from another Woman, except ſhe had a Maſk on.

Q. How long before this Tryal ſaw you her?

A. About a Fortnight. She gave me an Account that her Mother dy'd the 10th of *January*, in *Holland.*

Q. When did ſhe go away?

A. I did not take Notice of the Time ſhe went away.

Q. Did you know *Hauſeur* at any other Place but at the Lady-Dutcheſs's?

A. Never, but as I have ſeen him in the *Park*, and with Mr. *L'Eſtrange.*

Q. Was you never with him at Sir *John Germaine*'s.

A. Never.

Q. D'you know Sir *John Germaine?*

A. After I had liv'd with the Dutcheſs ſome time, I was told by ſome in the Street, that that was his Coach, and his Livery; and that he was the Man that there was ſo much Noiſe about.

Q. Did you never ſee him in the Dutcheſs's Houſe?

A. I

A. I never ſaw him in no Part of my Lady-Dutcheſs's Houſe, nor in no Apartment; and I am the only Man that goes up and down Stairs.

Q. Did you never ſee him in the Dutcheſs's Company at any other Place?

A. No.

Q. Did you conſtantly lie at the Dutcheſs's Houſe?

A. When the Dutcheſs was laſt at *Drayton*, I lay at *Richmond* two or three Nights.

Q. Did you lie conſtantly there, when the Dutcheſs was there?

A. I was ſick near a Month, and all that Time I lay at my Wife's; but moſt commonly lay at the Dutcheſs's, ſince ſhe is come to *Duke-ſtreet* to live.

Q. You ſay, you us'd to open the Door in the *Park*, firſt in the Morning: What time did you uſe to open it at?

A. At ſix, ſeven, or eight a Clock in a Morning; there was no certain Hour, but I generally open'd that Door.

Q. Did you ever know *Hauſeur* come in at any other Door but that?

A. Yes; one wet Day he came in at the Street-Door, before the Porter, and all the Servants, and aſk'd for the ſame Woman.

Q. Did he never aſk for any other Body?

A. I never heard him aſk for any but *Suſan Barrington*, for ſhe was his Country-Woman.

Q. If

Q. If *Nicholas* got in at the *Park*-Door, could not he get up Stairs?

A. If he could get in at that Door he talks of, he could not get into the Dutcheſs's Apartment; for there was a Room betwixt that, where the Plate and Jewels lay, that no Key could open; that if he could get up two Pair of Stairs, he could not get in there.

Q. If he had a Key, and got in at any Door; could not *Suſan Barrington*, when he came in, without any Difficulty, lead him round the Houſe.

A. I can't ſay but ſhe might; but I never ſaw him but below Stairs with that Woman, and then he went away without going up Stairs.

Q. Did you never ſee him bring any thing to the Houſe?

A. No.

Q. You nam'd one *L'Eſtrange*, that you ſaw with him at the Tavern; What is he?

A. He was my old Fellow-Servant at the late Duke of *Norfolk*'s.

Q. What Diſcourſe had you with him then?

A. He complain'd to me of his being ill, and I gave him the beſt of my Advice.

Q. What Time was it that *Nicholas* had thoſe threatning Words againſt his Maſter?

A. About

A. About ten, eleven, or twelve a-Clock at Noon.

Q. How long ago is it?

A. I can't tell if it be a Year, or two Years; 'twas a little after *Michaelmas*; but whether it be one Year or two Years, I can't tell.

Q. Could not Mr. *L'Eſtrange* tell?

A. I aſk'd Mr. *L'Eſtrange*, and he could not tell.

Q. Whoſe Servant was *Nicholas* then?

A. He was no Body's Servant then. He rail'd againſt his Maſter at that Time for turning him away.

Q. Did you not know who was his Maſter a Year or two ago?

A. He told me he was out of Place.

Q. Did you not know him to be Sir *John Germaine*'s Servant, when he came to the Dutcheſs?

A. I did not know it, when I firſt ſaw him and *Suſan* together; but ſome time before he went away, I heard he was his Servant.

Q. But you ſay, you did not know Sir *John Germaine* about two Years ago.

A. I did not know him, ſo as to ſpeak to him.

William White

Die Lunæ, 4 *Martii*, 1699.

Matthew Mac-Dondell *Sworn*,
Depoſeth as followeth.

Queſt. HOW long have you liv'd with the Dutcheſs of *Norfolk?*

Anſw. Four Years, at *Lady-Day* next.

Q. In what Manner was the Door going out to the *Park* kept? Had any Body a Key to it, that was not of the Family? Did it uſe to be left open?

A. 'Twas not to be left open; 'twas very unſafe to be left open: Beſides, it was bolted and lock'd.

Q. Was there particular Care taken of that Door?

A. Yes, I my ſelf bolted it very often at Night.

Q. Did you often unbolt it in a Morning?

A. Yes.

Q. Whether or not, the Time that you liv'd there, did you know any Body, that was not of the Family, come with a Key to open that Door?

A. Never.

Q. Did you know *Hauſeur* or *Nicholas*? Had he a Key to that Door?

A. I

A. I never knew it.

Q. Did you ever ſee him come in at that Door?

A. I open'd that Door for him once or twice, when he rung.

Q. When was that?

A. In an Evening.

Q. What did he come about?

A. I do not know; but he aſk'd for *Suſan*, my Lady-Dutcheſs's Servant.

Q. Did you ever ſee him go up Stairs?

A. I never did hear he went up in my Life.

Q. When he aſk'd for *Suſan*, did he go up then?

A. No, I call'd her to him, and I never ſaw him go up Stairs.

Q. Did you ſtay with him all the while *Suſan* was with him?

A. No, I had no more Buſineſs, I went my way.

Q. Was *Nicholas*, when he rung, in the *Park*, or at the inner Door?

A. In the *Park*.

Croſs-Examin'd.

Q. Did you know whoſe Servant *Nicholas* was?

A. I did not know, nor I aſk'd no Queſtions.

Q. How

Q. How often have you ſeen him at the Dutcheſs's?

A. Three times.

Q. Did he always aſk for *Suſanna Barrington?*

A. One time he aſk'd for Mr. *Keemer.*

Q. Who was Mr. *Keemer?*

A. He was the Dutcheſs's Servant.

Q. Did you uſe to ſtay with him, or did you leave him?

A. No; to tell you the plain Truth, I thought he came to court *Suſan*, and did not ſtay with him.

Q. Did you ever ſee him up Stairs in *Suſan*'s Room?

A. I never ſaw him there.

Q. What Employment have you under the Dutcheſs?

A. I am her Footman.

Q. When did you ſee *Suſan* laſt?

A. On *Tueſday* Sev'n-night, in the Morning.

Q. Not ſince?

A. No.

Q. Where did you ſee her then?

A. At the Dutcheſs's Houſe.

Q. What became of her after that?

A. She ſaid her Mother dy'd lately in *Holland*, and ſhe was going there.

Q. When did you hear her ſay ſo?

A. I heard her ſay ſo ſeveral times before ſhe went away, a Month, or a Quar-

ter of a Year before ſhe talk'd of going to *Holland.*

Q. Upon you Oath, don't you know that ſhe is at the Dutcheſs's?

A. I know not of her being there.

Q. Can you take it upon your Oath, when ſhe was firſt wanting?

A. I ſaw her on *Tueſday* Sev'n-night laſt, in the Morning.

Q. How came you to know ſhe was gone, if you don't know the Time when ſhe went?

A. I did not know ſhe was gone, 'till I went Home from the Houſe here.

Q. Who told you ſhe was gone?

A. The Servants.

Q. She was there when you came hither?

A. On *Tueſday* Morning I did ſee her.

Q. Has the Dutcheſs another in her Station?

A. There is one Mrs. *Cambell*, that dreſſes my Lady-Dutcheſs, but ſhe does not live there.

Q. Did ſhe uſe, in *Suſan*'s Time, to come and dreſs the Dutcheſs?

A. Yes, ſhe us'd to come ſometimes.

Q. Has the Dutcheſs taken any Body to do *Suſan*'s Work?

A. I know not of any.

Sign'd,

Matthew + Mac-Donnel.

Die

Die Lunæ 4 *Martii*, 1699.

Mr. Robert Welburne *Sworn, Depoſeth as followeth.*

Queſt. WHat Account can you give of Mr. *L'Eſtrange*'s having Notice to be a Witneſs?

Anſw. I was told by the Dutcheſs, that *L'Eſtrange* had been with her, and gave her an Account of ſome Particulars between *White*, and him, and *Nicholas*: That having the Griping in the Guts, they went into a Tavern together: That he heard *White* and *Nicholas* talk together very loud; but he told me he had the Gripes, and could not ſo well mind what he ſaid, but he heard him uſe hard Words againſt his Maſter, but he could not remember that he ſaid he would be reveng'd upon his Maſter; but he would recollect himſelf, and if he could remember, he would ſay what he could. He told me, he had been bred in the *Norfolk* Family.

Q. Did you aſk Mr. *L'Eſtrange* about this Matter?

A. Yes. Mr. *L'Eſtrange* told me, he remember'd they were together, and heard *Nicholas* ſpeak very hard, ill Words againſt his Maſter, but he could not be poſitive

what they were; but what he could remember, he would ſpeak, if that would do the Dutcheſs any Service. He deſir'd my Lady-Dutcheſs would give him Notice the Night before, and he would appear.

Q. When was this?

A. 'Twas *Tueſday* or *Wedneſday*; I think 'twas *Wedneſday*.

Croſs-Examin'd.

Q. Did the Lady-Dutcheſs tell you what Mr. *L'Eſtrange* ſaid?

A. Yes; that gave me the Occaſion to ſpeak of it. He ſaid, he heard *Nicholas* ſay hard, ill Words againſt his Maſter; but not that he heard him ſay he would ſtudy to be reveng'd. Perhaps, ſays he, there might be ſome other Words. That he was in the Kitchin, and would endeavour to recollect who was there beſides; and if he had two or three Days time, he would enquire.

Q. Did you let him know that you was concern'd for the Dutcheſs?

A. Yes; and he told me he would tell what he could ſay in this Matter; and he ſhould be ready to appear at any Time, if that would be for the Dutcheſs's Advantage.

Q. Did he tell you he was going abroad, or to *Holland*?

A. Not one Word.

Q. Di

Q. Did you intimate to him, when the Dutcheſs was to make her Defence?

A. I think I did, but I can't be poſitive; but he took no Notice to me, that he would not be there.

Q. D'you know Mr. *La Fountaine?*

A. Yes, I know one *La Fountaine.*

Q. Is he in the Dutcheſs's Service?

A. I believe not.

Q. D'you know whether he is at *Drayton?*

A. I have ſeen him at *Drayton.*

Q. Did he live with Sir *John Germaine*, that you know of?

A. Never, that I know of.

Q. When ſaw you *Suſan Barrington?*

A. I can't be poſitive; but I think, not this Month or ſix Weeks.

Q. Han't you ſeen her ſince this Bill was brought in?

A. Poſitively, I have not.

Sign'd

Robert Welborne.

Die Lunæ 4 *Martii*, 1699.

Eleanor Monfort *ſworn, depoſeth as followeth.*

Queſt. TELL the Lords if you know *Nicholas Hanſeur*, and on what Account you came to know him?

Anſw. This *Nicholas* lodg'd two or three times at my Houſe. My Huſband was a *Dutch-man*, and he was a *Dutch-man*; they were like Brothers, they lov'd one another.

Q. What know you of this Man, this *Nicholas*?

A. My Huſband told me, that this Man *Nicholas*, I did not know no other Name he had; my Huſband told me, that he had a Deſign to rob his Maſter, and that he knew where his Gold and his Jewels lay, and had made falſe-Keys, and would watch his Opportunity, when his Maſter was at Play, or out of Town, and left the Keys at her Houſe.

Q. Your Huſband told you ſo?

A. Yes, my Huſband bid me ſend for this Man; theſe were his laſt dying Words.

Q. Your Huſband had a ſad Misfortune. When was't your Huſband told you ſo?

A. When he was in Priſon.

Q. How

Q. How long ago is that?

A. About eight or nine Years ago, laſt *Chriſtmas.* I would not have your Lordſhips think my Huſband was ſo bad a Man; he was only condemn'd and executed for changing ten Pounds of his own Money.

Q. What were your Huſband's laſt dying Words?

A. He deſir'd me to ſend for this Fellow, and deliver thoſe Things he left at my Houſe. I ſent for him. He came, and had ſome Keys in a Drawer, that my Huſband told me he left there. He took two or three Keys, and put them in his Pocket, and look'd mightily out of Countenance.

Q. What did your Huſband ſay to you?

A. He bid me give *Nicholas* the Keys, and bid him have a Care and keep good Company.

Q. When was that?

A. A Week or Fortnight before my Huſband was executed.

Q. Did you acquaint *Nicholas* with what your Huſband ſaid of him?

A. No, an't pleaſe your Honours; I only told him, my Huſband charg'd me to give him thoſe Keys; but being in Trouble, and having a great many Enemies, I talk'd no further with him.

Q. What did *Nicholas* ſay to you?

A. He look'd out of Countenance, and told me he would come and ſee me another

Time, but he never did; ſo that I did not ſee him again, till I ſaw him in the *Meuſe*, and then he told me that he would come to ſee me; but he never did, but always ſhun'd me.

Q. How long have you known *Nicholas*?

A. Theſe eight or nine Years. I knew him when he was Foot-man to Sir *John Germaine*, and I knew him when he was his Gentleman. I knew him when he went, and I knew him when he came. He is like a Sea-Rat, he comes and goes when he pleaſes. I hope in God Almighty, it will be conſider'd by this Houſe, that ſuch a Fellow's Witneſs ſhould not be taken in ſuch a great Concern.

Signum

Eleanor + Monfort.

Then the Dutcheſs's Council pray'd, that *Mac-Donnel* may be examin'd, as to the withdrawing Witneſſes, and that it be taken in Writing; which was agreed to, and he examin'd.

Then the Dutcheſs's Council proceeded to examine other Witneſſes, and their Evidence taken in Short-hand.

Then

Then Mrs. Pitts *being call'd for, and not appearing*; William Godfrey *being ſworn, ſaid to this Effect.*

I Went to ſerve Mrs. *Pitts*, on *Friday* Morning; when I came to her Houſe, there was nobody. A Woman with a Pitcher of Water went in; I aſk'd her for Mrs. *Pitts*? She ſaid, ſhe was not at Home: I ſhew'd her the Order, and left a Copy of it upon the Table. She was loth to receive it. She ſaid, the Lady would be within quickly. The Woman's Name was *Olivet*. The laſt Night I went again, and a Woman came out, and ſaid, Mrs. *Pitts* was not at Home. Then ſhe ſpake in *French* to me. I did not underſtand her. I left a Note for her to attend this Day.

Then the Dutcheſs's Council pray'd, that ſome Agreements between the Duke and Dutcheſs, in 1694, may be read out of the Deeds executed for that Purpoſe; which was agreed to, and read accordingly.

Die Martis 5 Martii, 1699.

Francis Negus *ſworn, depoſeth as followeth.*

Queſt. I Deſire Mr. *Negus* may be aſk'd, whether the Dutcheſs of *Norfolk* did not ſend ſome Meſſage by him? The Words I don't confine him to; but, whether the Meſſage ſent by him to my Lord-Duke, was not to this Purpoſe, That notwithſtanding the Articles, ſhe deſir'd to know from his Grace, in what Manner ſhe ſhould live, and that ſhe would be govern'd by his Directions?

Anſw. I think it was much about the Time of the Tranſaction of theſe Articles the Dutcheſs ſent to me. Mr. *Longueville* was Council for the Duke, and Sir *Thomas Powys* for the Dutcheſs. Mr. *Longueville* took what Care he could; and when they came to talk of their living ſeparately, I took it only to be an Apprehenſion and Fear, that my Lord-Duke would confine the Dutcheſs to ſome Houſe. My Lady-Dutcheſs ſent for me. I waited on her; and ſhe expreſs'd herſelf very ſenſibly of the Misfortunes of the Duke and herſelf, that ſuch Differences ſhould have been between them; and ſhe was deſirous to let my

my Lord-Duke know, and desir'd me that I would let my Lord-Duke know it, that she would avoid all Company, that should give him any Offence; and that she would not so much as pay a Visit, but where he liked. I acquainted my Lord-Duke with something to this Purpose; for she often said to me, more than once or twice, that if she happen'd to die before my Lord-Duke, she would leave him her Estate; and I know I have said so to my Lord-Duke.

Q. Whether, from that Time, do you know, that the Duke sent any Message of Complaint to the Dutchess, to the Place where she liv'd, that he would have her live in any other Way?

A. I know nothing of that Matter.

Q. Do you know whether my Lord-Duke ever desir'd her to come and live with him?

A. I never heard of any such Thing.

Q. Did he ever send to her, to avoid any Company?

A. I never heard of any such Thing.

Q. Whether had you any Directions to attend the Duke, That he would give way in a Controversy between the Dutchess and a noble Lord of this House, whether he would wave his Privilege?

A. I have great Reason to desire Sir *Thomas*'s Favour in this Matter; I know

not what he aims at. I was call'd to the Bar before, to ſpeak the Truth; as to the Matter of the Privilege, I know not what he means by it.

Q. I meant it only as an Inſtance of a civil Meſſage between the Duke and Dutcheſs, owning her as his Wife; and that this was a Meſſage that beſpoke a good Underſtanding between them?

A. Will you have me to give an Anſwer to Sir *Thomas*, my Lords? I confeſs the Duke did ſend for me, and aſk'd how the Settlement and Agreement were betwixt the Duke and the Dutcheſs, becauſe of this Matter of the Privelege.

Q. I did not mean that; but only as a late Inſtance of the Duke's owning the Dutcheſs ſo far?

A. When the Duke ſent for me, he would know, whether by the Agreement, he was oblig'd to let her have the Privilege? I ſaid, I underſtood it ſo; and tho' he had no Mind to do it; but as he had wav'd his Privelege, in the Caſe of an Unckle, he would do it for her.

Q. What would have been the Conſequence, if the Duke had not wav'd his Privilege? Would not that have defended her from a Suit?

A. That you may make uſe of as you pleaſe.

Sir

Sir *Thomas Powis.* I would only make this Uſe of it, as an Inſtance of Kindneſs between the Duke and Dutcheſs.

Francis Negus.

After the Examination of *Francis Negus*, he being before ſworn, the Dutcheſs's Council declar'd, they had finiſh'd their Evidence.

Whereupon, the Duke's Council deſir'd to call a Witneſs or two, to ſupport *Nicholas Hauſeur*'s Reputation. Then *William Allen* was ſworn and examin'd.

Die Martis 5 Martii, 1699.

William Allen *ſworn, depoſeth as followeth.*

Queſt. D'You know *Nicholas Hauſeur?*
Anſw. Yes.

Q. How long have you known him?

A. Three Years.

Q. Did you not know him before that Time?

A. I knew him about three Years ago.

Q. Had you any Dealings before that Time?

A. I had Dealings with him when he liv'd with Mr. *Germaine.*

Q. What

Q. What were his Dealings?

A. As honeſt and fair as any Man could deſire.

Q. What Office had he under Mr. *Germaine*?

A. He was Cook to Mr. *Germaine*, I ſuppoſe.

Q. What? Was he Cook to him?

A. He bought in the Goods, and he paid me honeſtly for what he bought.

Croſs-Examin'd.

Q. What Trade are you?

A. A Butcher.

Q. Then he paid you his Maſter's Money for his Maſter's Goods?

A. Yes, he paid me very honeſtly.

Q. When ſaw you him laſt?

A. I ſaw him when I was ſummon'd here, by Order of this Houſe; but not before, of late.

Sign'd

William W. Allen.

The Duke's Council mov'd, for Copies of the Examinations and Journals; which was granted, and then the Council withdrew. The following Orders were made.

It

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That Copies of the Examinations, ſign'd by the Witneſſes this Day, and Entry in the Journal, be deliver'd to either Side: And that the Examinations taken this Day in Short-hand, be tranſcrib'd, in order to be read to the Witneſſes to-Morrow.

It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That to-Morrow, at Twelve of the Clock, this Houſe will proceed to hear the Examinations taken this Day, read to the Witneſſes, relating to the Duke and Dutcheſs of *Norfolk*, and all Lords ſummon'd to attend.

Die Mercurii 6 Martii, 1699.

After the Examination taken Yeſterday, relating to the Duke and Dutcheſs of *Norfolk*, were read to the Witneſſes, and they ſigning them, the Dutcheſs's Council mov'd to have Copies of the Depoſitions taken on either ſide, and then withdrew.

Die

Die Martis 5 *Martii*, 1699.

Matthew Mac-Donnel *ſworn, depoſeth as followeth.*

I Was going to Mr. *Strange*'s Houſe, and I ſaw my Lord *Howard* of *Eſcrick* coming that Way, and he went to the Door and knock'd. I made up to the Door, and a Girl open'd the Door. My Lord ask'd if Mr. *Strange* was within? And ſhe anſwer'd, Yes. Then I went to the Door, and aſk'd if Mr. *Strange* was at Home? She anſwer'd, No, he went away on *Thurſday*. I aſk'd, by Packet-Boat, or how? She ſaid, by long Sea. I thought ſhe told my Lord, he was within; and ſo I came away.

Signum,
Matthew + Mac-donnel.

Die Martis 5 *Martii*, 1699.

Richard May *ſworn, depoſeth as followeth.*

Queſt. DO you know *Nicholas Hauſeur*?
A. I never ſaw him 'till *Sunday* Fortnight laſt.

Q. Where

Q. Where ſaw you him then?

A. At my Lord Duke of *Norfolk*'s. I had a Command from my Lord Duke to take him in there.

Q. Where?

A. To lodge him in my Lord-Duke's Houſe. I am his Houſhold-Steward; he commanded me to provide for him in the Houſe.

Q. I don't deſire you ſhould do any thing unbecoming to my Lord-Duke; but you are upon your Oath, and you muſt tell the Truth?

A. I'll freely tell what I know.

Q. Can you give me any Account where he was before that Time?

A. I never ſaw nor heard of him 'till then.

Q. Hath he been there ever ſince?

A. Yes, I made Proviſion for him, by his Grace's Command.

Q. Do you know *Vaneſs?* Where hath ſhe been?

A. On *Sunday* was Fortnight ſhe came thither likewiſe, and I was order'd to take care for her.

Q. Where was ſhe lodg'd?

A. In my Lord-Duke's Houſe, in St. *James's-Square.*

Q. Has ſhe been there a Fortnight?

A. Yes, a Fortnight laſt *Sunday*, and coming here to attend the Lords.

Q. Had

Q. Had ſhe the Liberty of the Houſe? Or was ſhe kept cloſe?

A. They were kept only as they deſir'd themſelves: No Body was deny'd Liberty to ſee them. They deſir'd to be there, ſooner than any Place.

Q. D'you know that thoſe People have been ſent for, and how long before they came?

A. I was never Privy to any Thing of that Nature: I had no knowledge of their Names, nor whence they came.

Q. Do you know of any Money iſſu'd out for their coming over?

A. Not one Penny.

Q. Do you know of any Reward they have had, or are to have?

A. I know not of any Reward they have had, or are to have.

Sign'd,

Richard May.

Die Martis 5 Martii, 1699.

Chriſtopher Raine *Sworn, Depoſeth as followeth.*

Q. ARE you Servant to the Duke of *Norfolk?*

A. Yes.

Q. D'you know *Hauſeur?* *A.* I

A. I have ſeen him, but am not acquainted with him.

Q. How long is it ſince you ſaw him?

A. It is within this Fortnight.

Q. Did you not ſee him any Time further off?

A. No; I am poſitive of it.

Q. Where did you ſee him firſt?

A. In St. *James*'s.

Q. In what Place there?

A. At his Grace's Houſe.

Q. Hath he been there ever ſince?

A. Yes.

Q. Was there a Woman call'd *Vaneſs* with him? *A.* Yes.

Q. Did they come at the ſame Time?

A. Yes.

Q. How long ago?

A. A Fortnight; it may be not ſo much.

Q. Had they the Liberty of the Houſe, to take Notice where they were?

A. They had Liberty to go were they pleas'd.

Q. Did they go abroad ſince they came there?

A. I can't tell; not to my Knowledge.

Q. D'ye know whether they went out of the Houſe upon any Occaſion?

A. Not to my Knowledge.

Q. Who brought them there?

A. I don't know.

Q. D'you know whence they came?

A. No. *Q.* Did

Q. Did you not underſtand where they lodg'd before?

A. No. I am Stranger to them both; I never ſaw them before.

Q. Saw you them when they came firſt?

A. No; I was not at Home.

Sign'd,

Chriſtopher Raine.

Die Martis 5 Martii, 1699.

Edward Cotter *Sworn, Depoſeth as followeth.*

Q. ARE you Servant to the Duke of *Norfolk?*

A. Yes.

Q. D'you know *Nicholas Hauſeur?*

A. I did not know him but ſince this Tryal.

Q. How long ago is that?

A. About a Fortnight.

Q. D'you know where he had been before?

A. No; I knew nothing of him, where he was, nor what he was.

Q. Came *Helena* the *Dutch-woman* with him?

A. Yes,

A. Yes, the Woman came with him ſince the Tryal; I never ſaw them before.

Q. Did you never know them go out of Doors ſince they came, but to this Houſe?

A. Never, no where elſe.

Q. Who brought them to the Duke's?

A. I know not.

Q. Whence came they: D'you know?

A. I can't tell.

Q. Did they never report in the Houſe whence they came?

A. No, I never heard where they liv'd, nor how they behav'd themſelves.

Q. D'you know whether ever any Reward was given them?

A. No.

Q. I deſire he may be ask'd, Whether he has not known before, for ſome Time paſt, within this Fortnight or three Weeks, more or leſs, Meetings in *Somerſet-Houſe*, in order to this Tryal?

A. The Thing is this; I was one Night at *Somerſet-Houſe* with my Lord-Duke, 'twixt ſix and ſeven a Clock; but I can't tell how long it is, whether it be three Weeks or a Month; it is no more, that I know.

Q. What were you there about?

A. I went there with my Lord-Duke.

Q. Upon your Oath, Was there any thing done there, relating to this Tryal?

A. Upon my Oath I did not know, but 'twas

'twas concerning my Lord *Howard* of *Eſ-crick.*

Q. Was he there with the Duke?

A. Yes.

Q. Did you know who they went to?

A. No.

Q. Upon your Oath, Don't you know whether they went to Madam *Pitts*, or no.

A. They went to ſome Houſe, but I don't know her Name they went to.

Q. Was there any Body elſe there, but my Lord Duke, and my Lord *Howard?*

A. God knows. My Lord-Duke call'd me to the Door, and ſent me on a Meſſage; and I went, and came again.

Q. Who did you ſee there, when you came again.

A. I ſaw none but my Lord-Duke, and another that I did not know.

Q. Who did you ſee go in?

A. None but my Lord-Duke, and my Lord *Howard.*

Sign'd,

Edward Cotter.

Die Martis 5 Martii, 1699.

Frances Huddleſtone *Sworn, Depoſeth as followeth.*

Q. UPON your Oath, D'you know of any Meetings, relating to this Tryal, that have been within ſome Time paſt?

A. For Meetings, I know not any thing of them.

Q. Do you underſtand the Queſtion?

A. I know nothing of any Meetings.

Q. Have you not been at any Place where any Thing has been done, relating to this Tryal, againſt the Dutcheſs of *Norfolk*?

A. I don't underſtand any thing of the Tryal. I know nothing of the Dutcheſs of *Norfolk*.

Q. Pray give a poſitive Anſwer: Have you not been preſent, or do you know of no Meeting, relating to the Proceedings againſt the Dutcheſs of *Norfolk*.

A. I never was at no Meeting.

Q. Who do you live with?

A. I live with my Lord *Howard*.

Q. Was you ever preſent at *Somerſet-Houſe*, where my Lord *Howard* and others met?

A. I

A. I have been at *Somerſet-Houſe*, but know nothing of any Concerns.

Q. D'you know *Vaneß?*

A. I know no ſuch Perſon.

Q. D'you know *Nicholas?*

A. I don't know him.

Q. Pray anſwer poſitively: Do you know one *Nicholas*, call'd *Hauſeur?*

A. I know ſeveral of that Name, but I know not who you mean.

Q. I mean one that liv'd with Sir *John Germaine?*

A. . I know him not. I had never any Converſation with any Body that liv'd with Sir *John Germaine.*

[*Nicholas* call'd in.]

Q. Did you ſee any ſuch Man as appears here, at *Somerſet-Houſe?*

A. know no ſuch Man, as is call'd *Nicholas Hauſeur.* I know ſeveral call'd *Nicholas.* but none of the *Hauſeurs.*

Q. Look upon this Man: Have you ſeen him before, or not?

A. Yes: I have ſeen him twice or thrice but I knew not who you meant before.

Q. How long is it ſince you ſaw him firſt?

A. About a Fortnight ago.

Q. Have you not not ſeen him at *Somerſet-Houſe?*

A. Never.

Q. Where did you ſee him?

A.

A. In *Gerrard-Street.*

Q. Was that all the Places you ſaw him at?

A. I ſaw him no where elſe.

Q. Whoſe Houſe did you ſee him at?

A. At Captain *Soames*'s Lodgings.

Q. Did you not ſee a *Dutch-woman* there, one *Helen Vaneß?*

A. There was a Woman with him; I don't know her Name.

Q. Did you ſee her at Captain *Soames*'s?

A. She was with this Gentleman there.

Q. Did you ſee her at no other Time or Place:

A. No.

Q. Who elſe was there then?

A. Captain *Soames*, my Lord *Howard*, and one or two more. I was but at the Door: I have ſeen this Man go in: I was but a Foot-Man, waiting at the Door: I knew not the others that were there.

Q. Did you know no more that were there?

A. My Lord *Howard* was in the Houſe, but I know not if he was with them.

Q. Did you ever ſee *Helen Vaneß* before that Time.

A. I have ſeen the Woman ſince, but never ſaw her before.

Q. Did you never ſee her any where elſe?

A. Never any where elſe but at this Houſe, going and coming.

Sign'd,

Francis Ph. Huddleſtone.

The Council being withdrawn, the following Orders were made.

It is Order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That Copies of the Examinations, read to, and ſign'd by, the Witneſſes to Day, be deliver'd to either Side.

It is Order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That this Houſe will peremptorily proceed to hear the Duke of *Norfolk*'s, and Dutcheſs of *Norfolk*'s Council; to ſumm up the Evidence on both Sides, on *Friday* next, at Twelve of the Clock, and all the Lords ſummon'd to attend.

The Evidence having been ſumm'd up, the Lords, after long Debate, and a Diviſion of the Houſe, Committed the Bill, by a Majority of Sixteen.

Whereupon the Dutcheſs immediately preferr'd the Petition recited in the Order, 8 *Martii.*

Die

Die Veneris 8 *Martii*, 1699.

UPON reading the Petition of *Mary* Dutcheſs of *Norfolk*, Shewing, That by the Bill now depending, for diſſolving the Marriage between the Duke of *Norfolk* and your Petitioner, her Joynture and Marriage-Agreements are to be ſet aſide, and other Things in the Petition mention'd; and praying to be heard by her Council, touching the ſeveral Claims and Intereſt, and ſeveral Clauſes in the Bill; It is order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That the Petitioner ſhall be heard by her Council to morrow, at eleven of the Clock, at the Committee of the whole Houſe, to whom the ſaid Bill ſtands committed; at which Time, ſhe is to produce her ſaid Marriage-Agreement and Writings, as in the Petition is ſet forth: At which Time alſo, the Duke's Council may be preſent, if he think fit.

Matth. Johnſon Cler. Parliamentor.

The Dutcheſſes Council having refus'd to joyn in drawing any Clauſe, tho' they adviſ'd a Petition about the Joynture and Marriage-Agreement, the Duke's Council prepar'd a Clauſe, to which the Lords added a few Words, and paſs'd it as in the

Bill. The Bill being ſent down to the Commons, the Dutcheſs preſented the following Petition.

To the Honourable the Knights, Citizens, *and* Burgeſſes, *in Parliament aſſembled,*

The Humble PETITION of MARY, *Dutcheſs of* NORFOLK,

Sheweth,

THAT for putting an End to all Differences between the Duke of *Norfolk*, your Petitioner's Huſband, and your Petitioner, ſeveral Articles of Agreement were enter'd into, and executed in *April*, 1694, by the ſaid Duke, your Petitioner, and your Petitioner's late Father, the Earl of *Peterborough*; whereby, and by Deeds executed purſuant thereunto, the Duke had his then deſir'd Advantage, and hath fully enjoy'd the Benefit thereof; That your Petitioner, about the Time of perfecting the ſaid Deeds, ſignify'd to the ſaid Duke by Mr. *Negus*, that ſhe ſhould always readily comply

comply with all ſuch Orders, in her Way of Living and Converſation, as he would think fit to appoint Notwithſtanding which, and without ever ſignifying any Diſſatisfaction to or with your Petitioner, and without any manner of Notice, or previous Proceeding in the common and ordinary Courſe of Juſtice, and to take from your Petitioner that legal Tryal in the Eccleſiaſtical Court, which by the Laws of this Realm (as ſhe is adviſ'd) ſhe is entitled unto, did, on the 16th of *February* laſt, exhibit a Bill in the Houſe of Peers, entituled, *An Act to diſſolve the Duke of* Norfolk's *Marriage with the Lady* Mary Mordant, *and to enable him to marry again*, Upon which the Proceedings were ſo very quick, two Witneſſes, lately brought from beyond the Seas, being forthwith examin'd againſt your Petitioner, and your Petitioner being charg'd with Facts ſuppos'd to be committed many Years ſince, and long before the Date of the ſaid Articles, could not be prepar'd to make her Defence, as ſhe would have done, if the Proceedings had been againſt her according to the known Laws of this Land. The Places of Abode of the Witneſſes produc'd againſt her being not yet known or diſcover'd to your Petitioner; and your Petitioner having Notice, that the ſaid Bill is paſs'd the Houſe of Lords,

and ſent down for the Concurrence of this Honourable Houſe:

Your Petitioner prays ſhe may be heard by her Council at Law, and one Civilian, againſt the ſaid Bill, before any Proceedings be had thereon by this Honourable Houſe.

And your Petitioner ſhall pray, *&c.*

M. NORFOLK.

A Day being appointed, by the Houſe of Commons, for the Committee to proceed, the Duke caus'd the Papers following to be publiſh'd.

THE Duke of *Norfolk*'s CASE, WITH *Reaſons for paſſing his* BILL.

IF Want eiter of Precedent for a Parliamentary *Divorce*, before going through the tedious and ineffectual Methods of *Do-*

ctors

ctors Commons, or of Demonſtration of Fact, have hitherto depriv'd the *Duke of Norfolk* of that Relief againſt his Wife's Adultery, which the *Divine Law* allows; The late Statute made in the like Caſe, and the Coming in of Two, who, while the *Duke*'s former Bill was depending, had been ſent away to prevent that Diſcovery which they now make, cannot but be thought to remove all Objections againſt an Act of Parliament, not only for the Benefit of the *Duke*, but of the *Publick*, as a Means to preſerve the Inheritance of ſo great an *Office*, and *Honours*, to Perſons of the true Religion.

And ſince Biſhop *Cozens*'s Argument, in the Lord *Roſſe*'s Caſe, has made it evident, that thoſe Canons which govern the Spiritual Court in this Matter, are but the Remains of *Popery*, nothing can be now requiſite to ſatisfy the moſt ſcrupulous of the *Reformed Religion*, but to ſet the Duke's Proof of his Lady's Adultery in a true Light.

The Reputation which the Dutcheſs had maintain'd of Wit and Diſcretion, made it difficult for many to believe, that ſhe could be ſurpriz'd in the very Act of Adultery, as had been formerly prov'd. And though then it appear'd, That one *Henry Keemer* liv'd with the Dutcheſs, while ſhe went by a feign'd Name, at an Houſe hir'd for her

at *Vaux-Hall* by Sir *John Germaine*'s Brother; and that *Nicola*, who then liv'd with Sir *John*, us'd to receive Wood ſent from the Dutcheſs to Sir *John*'s Houſe by the Cock-pit; the withdrawing of *Nicola*, and carrying with him the *Dutch* Maid, equally entruſted with the Secret on Sir *John*'s ſide, left no Evidence of their conſtant Converſation, but *Keemer* ſince dead, and *Suſannah Barrington*, who had the like Truſt from the Dutcheſs.

Keemer, though very unwillingly, ſome Years ſince confeſs'd his living with the Dutcheſs at *Vaux-Hall*, where he pretended ſhe was obliged to conceal herſelf for Debt: And what Share *Suſannah* had in the Secret was unknown, 'till *Nicola* appear'd. *Nicola* coming into *England* ſome time ſince, in Expectation of a Service, expreſs'd his Readineſs to diſcover what he knew, and to endeavour to bring with him the *Dutch* Maid.

* She proves, that for two Months the firſt Summer after the King came for *England*, Sir *John Germaine*, and the Dutcheſs lived together as Man and Wife, and were ſeen in Bed together by her, Mr. *Bryan*, and his Wife, Sir *John*'s Siſter: And that *Nicholas Hauſeur*, Sir *John*'s *Valet de Chambre* uſed to be aſſiſting to him; as the Dutcheſs's

* *Eleanor Vaneſs*, Exam. 22. *Feb.* 1699.

cheſs's Woman, *Suſannah Barrington*, was to her, at going to Bed, and riſing.

She proves the like Converſation at *Vaux-Hall*, and the Dutcheſs's Houſe at the *Mill-bank*, 'till the Duke's firſt Bill for a Divorce was depending; within which Time *Nicholas Hauſeur*, by Sir *John*'s Order, carry'd away her, and *Suſannah Barrington*, with Intention of going for *Holland*, to prevent their being examin'd to what they knew; but the Wind proving contrary, they could not go 'till the Bill was rejected; and then Sir *John* fetch'd back *Suſannah*, who was moſt uſeful to the Dutcheſs; but *Hauſeur* went for *Holland* with *Ellen*.

* He confirms *Ellen*'s Evidence in every Particular; and beſides the Perſons mention'd by *Ellen*, as privy to Sir *John*'s lying with the Dutcheſs, names Sir *John*'s Brother *Daniel*. *Nicholas* having been found very truſty, his Maſter ſent for him to return to his Service; and gave him the Opportunity of proving the Continuance of the ſame adulterous Converſation at ſeveral Times and Places; from the Summer 1692, to the 26th of *Apil* 1696. He ſwears he had, after his Return to Sir *John*'s Service, ſeen them in Bed together at Sir *John*'s Houſe, at the *Cock-pit*, and at the Dutcheſs's Houſes at *Mill-bank*, and where ſhe now lives;

* *Nicholas Hauſeur.*

lives; and us'd to be let into the Dutcheſs's Apartment by *Suſanna Barrington*, or *Keemer*. Nor can any Man, who ſhall read the ample Teſtimonials given Mr. *Hauſeur* by Sir *John*, (by the laſt of which it appears, that he ſerv'd him faithfully as his Steward) reaſonably queſtion *Hauſeur*'s Credit.

*Another, who had been advanc'd by Sir *John* from his Footman to Mr. *Hauſeur*'s Place, and from thence to a good Office in the Exciſe, very unwillingly confirm'd the Teſtimony of *Hauſeur* and the *Dutch* Maid; not only as to the Time of their going from the Service of Sir *John* and the Dutcheſs, but tho' being no Foreigner, he could not ſo eaſily be ſent away to prevent Diſcovery; and therefore was not let ſo far into the Secret as *Hauſeur* and the *Dutch* Maid; yet, he ſwears the Dutcheſs us'd to come maſk'd to his Maſter's Houſe; that he has gone with him as far as the Horſe-Ferry towards her Houſe at the *Mill-bank*; that then his Maſter ſometimes *lay out all Night*, and the next Morning he has *carry'd Linnen and Cloaths* for his Maſter to *Keemer*'s Houſe, or *Keemer* has fetch'd them from him; and this he proves to have been ſince the rejecting the former Bill, and about five Years ſince, when he was

* *William Bayly.*

was ſucceeded by *Hauſeur*, as before he had ſucceeded *Hauſeur*.

Two other Foreigners, *La Fountaine*, who had liv'd with Sir *John*, and was ſerv'd with Summons at the Dutcheſs's Houſe at *Drayton*, and *Hugonee*, who ran away from the Lord *Haverſham*'s, ſince Summons was taken out againſt him, ſeem to have the ſame Truſt that *Hauſeur* had; for both declar'd, that nothing ſhould oblige them to *betray their Maſter's Secrets:* One ſaid, *No Court could diſpence with his Oath of Secrecy*; and both declar'd they would immediately go beyond-Sea. Summons have been taken out for Mr. *Brian*, and his Wife, and Sir *John Germaine*'s Brother (who are, or lately were in Town) to confeſs or deny what *Nichola* and *Ellen* appeal to them for; and it cannot be imagin'd, that Sir *John* ſhould chuſe the Honour of being thought to have to do with a Dutcheſs, before the clearing her and himſelf from the Imputation, by bringing his Relations to diſprove the Charge, if what is ſworn to be within their Knowledge is falſe.

And if Sir *John*'s Vanity ſhould prevail with him, at leaſt it is to be preſum'd, that his Relations would be more juſt to him and the Lady, than to ſuffer any thing to paſs againſt them, which they could in Truth and Juſtice prevent.

But ſince none of them appear, the World will believe their abſenting more than a Thouſand Witneſſes, in Confirmation of what Mr. *Hauſeur*, *Ellen*, and *Bayly* have ſworn. Whoſe Evidence not only ſtands untouch'd by any thing offer'd by the Dutcheſs's Witneſſes, but is plainly confirm'd by them in the principal Parts.

This being the Nature of the Proofs, 'tis obſervable,

1. That there never yet was any Caſe of this Kind, where the Evidence was not liable to greater Objections than can be made to this.

Tho' in the lateſt Caſe of this Kind, there was full Conviction of the Lady's having Children while ſhe liv'd ſeparate from her Huſband, and the Preſumption was very violent whoſe the Children were; yet this was but Preſumption, and that was weaken'd by the Preſumption in Law, that they were the Huſband's; eſpecially, ſince there was no direct Proof of the Lover's ever lying with her.

2. Tho' in that Caſe, by Reaſon of the Interval of Parliament, and Fear of the Deaths of Witneſſes, a Suit was begun in *Doctors Commons*, 'tis taken from thence while the Suit was depending; therefore, that was rather an Objection againſt proceeding in Parliament, than an Argument for it.

3. In

3. In that Caſe, ſeveral Witneſſes were examin'd at the Bars of both Houſes, who had not been examin'd at *Doctors Commons*, nor any Notice given of their Names before their Examination.

4. It appears by that Caſe and the preſent, that the Examinations in Parliament are more ſolemn and certain than thoſe of the Spiritual Court, which depend too much upon the Honeſty of the *Regiſter*, or his Deputy.

5. Before that Caſe, Parliaments have either broken thro' the Rules which bind the Spiritual Court, as in the Caſe of the Duke of *Norfolk*, * 1 *Eliz.* where the Parliament ratify'd the Marriage, *as lawful according to Gods Law; tho' protracted and letted, by reaſon of certain Decrees and Canons of the Popes Law:* Or elſe have diſſolv'd a Marriage where there had been no Application to *Doctors Commons*; as in the Caſe of Mrs. *Wharton*, † who had been marry'd to Mr. *Cambel*; and yet there had been no Examination of Witneſſes, but what had been before the two Houſes.

So long before, in the Caſe of Sir *Ralph Sadler*, ** upon Proof before the two Houſes that the Lady *Sadler*'s former Huſband had deſerted her, and diſappear'd for four Years before ſhe marry'd Sir *Ralph*, the Parliament

* 1 *Eliz. n.* 31. † 2 & 3. *W. M.* ** 37. *H.* 8.

Parliament legitimated her Children by Sir *Ralph.*

Whereas ſome object againſt the paſſing the Bill, as if it would countenance a Juriſdiction in the Houſe of Lords, to examine to ſuch Matters, in the firſt Inſtance or originally; the Objection would be the ſame, if it had begun, as it might, in the Houſe of Commons; but in Truth would be of equal Force againſt moſt private, and ſeveral publick Acts, occaſion'd by the Examination of Witneſſes, or Notoriety of Fact.

Since therefore, the Duke has ſo long, and ſo often in vain endeavour'd to be freed from a Lady, publickly fam'd, and prov'd to have liv'd with Sir *John Germaine*, as his Wife; the Duke's former Diſappointments cannot but be powerful Arguments for his ſpeedy obtaining that Juſtice which the Spiritual Court cannot give him, their Power reaching no further than to that Liberty of living as *ſhe liſt*, ſome Years ſince ſettled by Articles: But as none of leſs Art and Oratory than her Council could have turn'd this into a Licence to commit Adultery, *if ſhe liſt*, or a Pardon afterwards; had there not been Evidence of her Acting according to ſuch Conſtruction, the Duke would have hoped ſhe had repented of the former Injuries he had receiv'd from her; but now hopes ſhe ſhall not

not longer continue to bear the Name of his Wife, and put him in Danger of being ſucceeded by Sir *John Germaine*'s Iſſue, or deprive him of the Expectation of leaving his Honours, Offices, and Eſtate, to a Proteſtant Heir.

Biſhop COZENS's ARGUMENT,

PROVING,

That *Adultery works a Diſſolution of Marriage.*

Being the Subſtance of ſeveral of Biſhop *Couzens*'s Speeches in the Houſe of Lords, upon the Debate of the Lord *Roſs*'s Caſe.

Taken from Original Papers, writ in the Biſhop's own Hand.

THE Queſtion is indefinitely to be ſpoken of, *Whether a Man being divorc'd from his Wife, who hath committed Adultery, and is convicted of it, may marry himſelf*

himſelf to another Wife or no, during the Life of her which is divorc'd.

The Place in St. *Matthew* the 5th, repeated again St. *Matthew* the 19th, has great Perſpicuity: If it be not lawful for any Man to put away his Wife, and marry again, except it be in the Caſe of Fornication, (for the diſplacing the Words, by putting the Exception before the Marriage, cannot alter the Senſe,) then, *à contrario*, it muſt of Neceſſity follow, That if the Wife be put away for Fornication, the Huſband, by the Tenor of *Chriſt*'s Words, is left free to marry again; which Freedom is not allow'd to the Adultreſs herſelf, nor any Man elſe that ſhall marry her.

St. *Mark* and St. *Luke* have been oppos'd to St. *Matthew*; and it has been ſaid, that *Chriſt*'s Words in St. *Matthew*, did not properly belong to *Chriſt*'s Diſciples, or the Chriſtian Church, as the Words in St. *Mark* and St. *Luke*, which are abſolute, do; which is a Saying that neither I, nor, I think, no body elſe ever heard of before; for *Chriſt*'s Sermon in the Mount was ſpoken to *his Diſciples*, and eſpecially belonged to *Chriſtians*.

'Tis clear they are ſpoken to *his Diſciples*; for he ſays to them, that they are *the Salt of the Earth, and the Light of the World*; and that they are *bleſſed, when* they

ſuffer

ſuffer Perſecution for his Name's ſake; which no Man will ſay or apply to the *Jews*.

'Tis true, that in the 9th Chapter of St. *Matthew*, *Chriſt* anſwers the *Scribes* and *Phariſees*, who came to tempt him with their Queſtion, *Whether it was lawful for a man to put away his wife for any cauſe*, as they ſaid *Moſes had permitted them to do*. But the Anſwer that *Chriſt* gave them, That it was not lawful, *but only in caſe of adultery, for men to put away their wives, and marry another*, was a Rule which concern'd *all Chriſtians* to obſerve for ever after; and for that Reaſon was recorded by St. *Matthew*.

The Words in St. *Mark* and St. *Luke*, are not to be taken abſolutely, but to be ſupply'd and underſtood by his Words in St. *Matthew*, as in many other Caſes is clear, *viz.* The Theif upon the Croſs; Baptiſm in the Name of the Father, Son, and Holy Ghoſt, *&c.* whereof many Inſtances may be brought, as the Deſtruction of *Niniveh*, *&c.*

But for *Chriſt*'s Words, the Exception confirms the Rule, and infers a Conceſſion, that in the Caſe of *Fornication*, the putting away one Wife, and marrying another is allow'd. It is alike with divers other his Exceptions, which are found in Scripture: For Brevity, I will inſtance in this one, *viz. Except ye repent, ye ſhall all likewiſe periſh.*

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ſuffer

ſuffer Perſecution for his Name's ſake; which no Man will ſay or apply to the *Jews*.

'Tis true, that in the 9th Chapter of St. *Matthew*, *Chriſt* anſwers the *Scribes* and *Phariſees*, who came to tempt him with their Queſtion, *Whether it was lawful for a man to put away his wife for any cauſe*, as they ſaid *Moſes had permitted them to do*. But the Anſwer that *Chriſt* gave them, That it was not lawful, *but only in caſe of adultery, for men to put away their wives, and marry another*, was a Rule which concern'd *all Chriſtians* to obſerve for ever after; and for that Reaſon was recorded by St. *Matthew*.

The Words in St. *Mark* and St. *Luke*, are not to be taken abſolutely, but to be ſupply'd and underſtood by his Words in St. *Matthew*, as in many other Caſes is clear, *viz.* The Theif upon the Croſs; Baptiſm in the Name of the Father, Son, and Holy Ghoſt, *&c.* whereof many Inſtances may be brought, as the Deſtruction of *Niniveh*, *&c.*

But for *Chriſt*'s Words, the Exception confirms the Rule, and infers a Conceſſion, that in the Caſe of *Fornication*, the putting away one Wife, and marrying another is allow'd. It is alike with divers other his Exceptions, which are found in Scripture: For Brevity, I will inſtance in this one, *viz. Except ye repent, ye ſhall all likewiſe periſh.*

riſh. Upon which Text, if I, or any Biſhop elſe were to preach; I believe we ſhould not diſcharge our Duty, unleſs we ſhould tell the People, That if by the Grace of God they did repent, they ſhould not periſh.

The Exception here, εἰ μὴ, *niſi*, unleſs, is parallel with the 1 *Kings* 3. 18. *None were in the houſe, except we twain*; they two therefore were, others were not.

Such Exceptions proceeding from natural Equity, are tacitly imply'd in Laws, tho' pronounc'd in general Terms.

But as to the Exception here, the Words are not capable of any other Senſe than as I have obſerv'd; for except that Reſtraint be referr'd to Marrying again, the Senſe would run thus, *Whoſoever puts away his Wife commits Adultery*; which ſtands not with Truth or Reaſon; ſince it is not the Diſmiſſion that is adulterous, but the Marriage of another. It is, therefore, the plain Drift of our Saviour, to teach the *Phariſee*, that the Marriage of a ſecond Wife, after a Diſmiſſion of a former, *upon any other cauſe, except for fornication*, is no leſs than Adultery; thereby inferring, That upon a juſt Diſmiſſion for Fornication, a ſecond Marriage cannot be branded with Adultery.

Beſides, the *Phariſee*'s Queſtion [*Is it lawful for a man to put away his wife for every Cauſe*]

Cauſe] was not without a plain Implication of Liberty to marry another, which our Saviour well knowing, gives a full Anſwer, as well to what he meant, as what he ſaid; which had not been perfectly ſatisfactory, if he had only determin'd that one Part concerning Diſmiſſion, and not the other concerning Marriage; which Clauſe, if two *Evangeliſts* expreſs not, yet it muſt be fetch'd neceſſarily from the third; ſince it is a ſure and irrefragable Rule, *That all four Evangeliſts make up one perfect Goſpel.*

The *Rhemiſts*, and College of *Doway*, urge for the *Popiſh* Doctrine, *Rom.* 7. 2. *The woman which hath an huſband, is bound by the law to her huſband as long as he liveth*; but,

1. This Place is to be expounded by *Chriſt*'s Words.

2. St. *Paul* hath no Occaſion here to ſpeak of *Divorce*, but of *Marriage whole and ſound*, as it ſtands by *God*'s Ordinance.

3. He ſpeaks of a Woman who is under an Huſband; ſo is not ſhe that is divorc'd from him.

4. St. *Paul* uſeth this to his Purpoſe of the Law being dead, to which we are not bound.

Nor is their Doctrine more favour'd by 1 *Cor.* 7. 10. *Let not the Woman depart*; as being in her Choice whether ſhe ſhould depart or not: But in the Caſe of *Fornication*

tion ſhe was to depart, or rather be *put away*, whether ſhe would or not.

The Bond of Marriage is to be enquir'd into, what it properly is; being a Conjugal Promiſe ſolemnly made between a Man and his Wife, That each of them will live together according to God s Holy Ordinance, notwithſtanding Poverty or Infirmity, or ſuch other Things as may happen during their Lives. Separation from Bed and Board, which is Part of their Promiſe ſo to live together, doth plainly break that Part of the Bond whereby they are ty'd to live together, both as to Bed and Board. The Diſtinction betwixt Bed and Board, and the Bond, is new, never mention'd in the Scripture, and unknown in the ancient Church; devis'd only by the *Canoniſts* and the *Schoolmen* in the *Latin Church* (for the *Greek Church* knows it not) to ſerve the Pope's Turn the better, 'till he got it eſtabliſh'd in the *Council of Trent*; at which Time, and never before, he laid his *Anathema* upon all them that were of another Mind; forbidding all Men to marry, and *not to make any Uſe of Chriſt's Conceſſion.*

Bed and Board, or Cohabitation, belong to the Eſſence and Subſtance of Matrimony; which made *Eraſmus* and Biſhop *Hall* ſay, *That the Diſtinction of thoſe two from the Bond, is meerly chimerical* and *Fancy.*

The

The Promiſe of Conſtancy and mutual Forbearance, if it hinders Divorce as to the Bond, hinders it alſo as to Bed and Board; and becauſe the ſame Bed, and the ſame Table, were promis'd in the Marriage Contract; but the Promiſe does not extend even to tolerating *Adultery*, or *malicious Deſertion*; which, according to *God's Ordinance, diſſolves the Marriage.*

Our Saviour ſpeaks of Divorces inſtituted by the *Moſaical Law*; but they were no other than Divorces from the *Bond.*

The Form of the *Bill of Divorce* among the *Jews* was this, *Be expell'd from me, and free for any Body elſe.* To give the Bill of Divorce, is from the *Hebrew* Root ברת, which is to break, or cut off the Marriage. With this agree the ancient *Canons, Councils,* and *Fathers* of the Church.

Concil. Neocæſar. & Elib. forbid the retaining an adulterous Wife. *Concil. Eliber. Aurelian. & Arelatens.* give Liberty in ſuch Caſe to marry again. *Clemens*'s Conſtitution, *Tertullian*, St. *Baſil* in his Canons approv'd by a general Council, are for marrying again. *Concil. Venet.* If they marry in any other Caſe than Fornication, they are to be *excommunicated*, and not otherwiſe. *Concil. Wormat.* gives Liberty to the Innocent Party to marry after Divorce. *Concil. Lateran.* gives leave for the innocent Party after a Year to marry again.

Concil.

Concil. Lateran. If any one take another Wife while a Suit is depending, and afterwards there be a Divorce between him and the firſt, he may remain with the Second.

Lactantius, St. *Hierom*, and *Epiphanius*, are for Allowance of Marriage after Divorce. *Chryſoſtom*, *Hom.* 19. 1 *Cor.* 7. ſays, That *the marriage is diſſolv'd by adultery*; *and that the huſband, after he hath put her away, is no longer her huſband.*

Theophylact. on the 16th of St. *Luke* ſays, That St. *Luke* muſt be interpreted by St. *Matthew*. St. *Hillary* is for marrying again, as Dr. *Fulk* ſaith upon St. *Matthew* the 7th. The *Eaſtern* Biſhops, in the *Council of Florence*, are for marrying again. *Juſtin Martyr* ſpeaks of a Chriſtian Woman's giving a Bill of Divorce to a diſſolute Huſband without finding any Fault with it.

St. *Ambroſe* ſays, a Man may marry again, if he put away an adulterous Wife; *Theodoret* ſaid of a Wife who violated the Laws of Marriage; *Therefore our Lord requires the Bond or Tye of Marriage to be diſſolved.*

All the *Greek Church* to this Day allow it. *Eraſmus Cajetan*, and other Papiſts: The Civil Law, and the Laws of the Emperor are clear for it; and the Conſtitutions of our Church of *England*, in the Time of *H.* 8. *E.* 6. and Queen *Eliz.*

The

The Practice of the *Engliſh* Church, in he *Stat.* 1 *Jac. c.* 11. againſt Second Marages, Divorces are excepted; and in *Canon* 07, 'tis provided they ſhall not marry gain; but it is not ſaid ſuch Marriages e void, only the Caution is forfeited: *ither doth the Canon ſpeak of ſuch Sepaions, wherein the Bond it ſelf is broken, 'tis by Fornication.*

Even the *Canon-Law* allows marrying gain, in caſe a Woman ſeek her Husnd's Life, and in caſe of a Bond-woman. *ratian* ſays, in the Cauſe of Adultery, wful Marriages ought not to be de-'d. In the Caſe of an incurable Leoſy, it was the Advice of St. *Gregory*, *Auſtin* the Monk, That he that could t contain, ſhould rather marry. *Belmin* owns, That the Bond of the Marge of Infidels is diſſolvable; but the arriage of the Faithful, and of Infidels, of the ſame Nature; and *Juſtinian*, a nit, confeſſes, That it is ſimply Lawful the innocent Party to marry again. nd the *Roman* Doctors allow a Diſſoion of the Bond of Marriage, if the ties ſhould, after Conſummation, tranſ themſelves into a Fryary or Nunnery. † The *Canons*, which in the Caſe of ultery, prohibit marrying in the Life-time

† *Ref. Leg. Eccleſ. Tit. de Adulteriis & Divortiis.*

time of the guilty Perſon, are contrary to two Acts of Parliment, made 25 *H.* 8. and 3 & 4 *E.* 6, *Wherein no Canons are allow'd, that be any way repugnant to the Laws of God, or the Scripture, the King's Prerogative Royal, and the Statutes of this Land.* Thirty two Perſons were to review the *Canon-Law*, in which Review, drawn up by Archbiſhop *Cranmer*, the innocent Perſon is permitted to marry again, *according to Chriſt's Law and Conceſſion.*

We have Examples of ſuch Marriages, in *H.* 4. of *France*, *H.* 8. of *England*, Lord *Mountjoy*, Lord *Rich*, Biſhop *Thornborough*, and divers others. And it is obſervable, that in the Caſe of the Marquis of *Northampton*, 5 *E.* 6. who had been divorc'd for his Lady's Adultery, and marry'd another, before any Act of Parliament made concerning it, an Act, which paſs'd afterwards, (only two Spiritual and two Temporal Lords diſſenting) declares, he had been *at Liberty by the Laws of God to marry*, and did *lawfully marry* another: where the Act manifeſtly ſuppoſes, that whatever had obtain'd for Law 'till that Time, was void, as being *contrary to God's Law.*

The moſt conſiderable Men of the Reform'd Churches, both at Home and Abroad, are of this Opinion: *Grotius* quotes *Tertullian*

Tertullian, in whoſe Time, it was lawful for the innocent Party to marry.

Lancelot Inſt. Jur. Can. acknowledges that Divorce is a Diſſolution of the Marriage.

Selden, who is not likely to contradict the Laws of this Kingdom, maintaineth, That Marriage after Divorce, is to be allow'd; and in that Particular, Dr. *Hammond* doth not contradict him, but is clearly for it.

The Opinion of *Ameſius* deſerves to be ſet down at large. "Marriage, ſays he, "cannot be diſſolv'd by Men at their "Pleaſure; and for that Reaſon, as it is "conſider'd ſimply and abſolutely, it is "rightly ſaid to be indiſſolvable; becauſe "Marriage is not only a Civil, but a "Divine Conjunction; and is alſo of that "Nature, that it cannot be diſſolv'd "without Detriment to either Party: "Yet it is not ſo indiſſolvable, but it "may be diſſolv'd for a Cauſe which "God approves as Juſt; For the Indiſ-"ſolvability was not inſtituted for a Pu-"niſhment, but for the Comfort of innocent "Perſons; and it admits an Exception, "wherein God ceaſes to conjoyn. By "Adultery, two are made not to remain "one Fleſh; hence it is, that a contagi-"ous Diſeaſe is not a Cauſe of diſſolving "Marriage. *By Adultery, the very Eſſence*

" *of the Contract is directly violated; but the* " *Contract ceasing, the Bond depending on* " *the Contract, necessarily ceases.* It is a- " gainst all Reason, that all Matrimonial " Duties should be for ever taken away, " yet the Bond or Obligation to those " Duties, should continue. The Words of " *our Lord, Matth.* 5. 32. and 19. 9. have " no Distinction or Limitation of the put- " ting away, but simply and absolutely " approve of putting away; therefore they " approve of putting away, not partial, " or to a particular Purpose, from Bed " and Board, but *total.*

None are against the Reform'd Divines, but Dr. *Howson*, Mr. *Bunny*, and Dr. *Prideaux.*

Dr. *Howson* was a profess'd Adversary to Dr. *Reynolds*, who was a great Maintainer of the Church of *England*, against all the Points of Popery, and particularly in this.

Dr. *Taylor*, Bishop *Hall*, Dr. *Fulk*, are for second Marriages; no Authors against them, but the *Council of Trent*, and those of the *Church of Rome*; whose Credit is only sav'd, by those of our Church who agree with them.

Upon the Difference of Explication between St. *Ambrose*, *Origen*, and St. *Austin*, a new Kind of Divorce has been thought of, *from Bed and Board*; but this *Divorce*, or

or *Name of a Divorce*, was unknown to the *Jews*, and *Ancient Chriſtians*.

I ſaid ſo much before, at the firſt and ſecond Reading of this Bill, that I was in good Hopes to have had no further Occaſion given me, of anſwering any Objections againſt it now; but ſeeing divers new Arguments have been ſtudy'd and fram'd againſt it, ſince that Time, I ſhall now endeavour to ſatisfy and clear them all.

1. The Firſt Argument againſt it is, That the Separation from Bed and Board, doth not diſſolve the Bond of Marriage. To which I muſt reply, as I did before, That this is a Diſtinction without a Difference; newly invented by the *Canoniſts* and *School-men*, and never heard of either in the *Old* or *New Teſtament*, nor in the Times of the Antient Fathers, who accounted the Separation from Bed and Board, to be the Diſſolution of the Bond it ſelf.

2. That firſt Inſtitution of Marriage, that they may be *one Fleſh*, is by Adultery diſſolv'd, when the Adultreſs makes her ſelf *one Fleſh* with another Man; and *thereby diſſolves the firſt Bond of her Marriage.*

3. The Objection; That if the Bond be diſſolv'd, and afterwards, if the Man or

Woman be reconcil'd, they muſt be marry'd over again, is no neceſſary Conſequence, no more than 'tis in a Perſon baptiz'd, who may break his Covenant, and renounce his Baptiſm; and yet, upon true Repentance, be receiv'd into God's Favour, by Virtue of the firſt Covenant, without a new Baptiſm. Suppoſe a Witch, who, they ſay, makes a Compact with the Devil, to renounce her Baptiſm, ſhould, afterwards, by the Grace of God, ſeriouſly and truly repent herſelf of the Wickedneſs, I do not believe, that any Body would take upon him to baptize her again. And if a Prieſt ſhould renounce his Orders, and turn *Turk*, and yet afterwards repent him, and return into the Church, he need not be re-ordain'd a ſecond Time. The Caſe will be the ſame in Marriage.

4. I ſaid heretofore, That the *Roman* Doctors allow'd this Diſſolution of the Bond, when the Man and Wife, even after the Conſummation of Marriage, would transfer themſelves into a Friary, or Nunnery: But becauſe it hath been ſince doubted, that no Authority can be ſhew'd for this Particular, I ſhall here ſhew it out of the old Conſtitutions of the Church of *England*.

* " And

* " And in the Caſe of Religion, that " is the true Underſtanding that, to wit, " either of them betaking themſelves to " Religion before Carnal Knowledge, the " Bond of the Marriage be diſſolv'd; *but* " *if both enter into Religion, and make ſolemn* " *Profeſſion, then ſuch Marriage is diſſolv'd,* " *even as to the Bond.*

5. It hath alſo been ſaid, that if the Bill paſs, it will paſs againſt the Church of *England*; which, I confeſs, I do not underſtand; for the Church of *England* is *within the Kingdom of* England; and if the Laws of this Kingdom be for the Bill, and have declar'd it by the Aſſent of the King, Lords, and Commons, as in the Caſe of the Marquis of *Northampton* was heretofore declar'd, in the Time of King *Edward* the 6th, *That by the Laws of God, the Innocent Party was at Liberty to marry again*; certainly the *Spiritual Lords*, as well as the *Temporal*, and *Commons*, are bound to admit it; *and I know not why they ſhould be call'd the Church of* England, *that joyn with the Council of* Trent, *and plead ſo much to uphold it, rather than others, that joyn with all the Reform'd Churches, and plead againſt the Canon of the Church*

* *Prov. Will. Lindewode, ſive Conſt. Ang. fol.* 94. *Verum. latenus ſeparentur.*

of Rome, *which hath laid an* Anathema *upon us, if we do not agree with them.*

As to the ſuppos'd Inconveniencies that will follow upon marrying again.

1. More Inconveniencies will follow, if they be forbidden to marry again.

2. The Father would be in an Uncertainty of the Children, if he ſhould retain the Adulteress.

3. There would be Danger of Poiſoning, or Killing one another, if no ſecond Marriage were allow'd.

4. Where the Parties ſhould conſent to new Marriages for their own Luſts, the Magiſtrates have Power to over-rule ſuch Practices.

5. If they be kept altogether by Divorce from marrying, it would occaſion the Innocent Party to ſin.

A little before the main Queſtion, about paſſing the Duke's Bill, the Dutcheſs's Agents handed about this Paper, among ſuch as they thought to be her Friends.

THE

THE

CASE of *Mary*, Dutcheſs of *Norfolk*.

UPON the Marriage of the Dutcheſs with the now Duke of *Norfolk*, in the Year 1677, her Father, the late Earl of *Peterborough*, paid, as Part of her Portion, 10000 *l.* and ſettl'd on that Marriage, Lands of near 1000 *l. per Annum*, the Remainder of which, on Failure of Iſſue, was limited to the now Duke, and his Heirs for ever; and the Earl, after his and his Lady's Death, ſecur'd to the Duke, the Forfeiture of *Drayton*, worth 10000 *l.* more; and the Duke receiv'd alſo by Agreement, 1000 *l. per Annum*, for twenty Years, out of the Earl's Eſtate; beſides very rich Jewels, Plate, and other Things of great Value, which the Dutcheſs brought with her into the Duke's Family: And great Debts having been contracted, for the Support of the Duke's Honour and his Service, while he cohabited with the Dutcheſs, ſhe hath, ſince his Separation

from her, paid them out of her own Eſtate.

That by the evil and malicious Inſinuations of the Dutcheſs's Enemies, the Duke was prevail'd on to carry her, then a Proteſtant, into *France*, and to put her into a Monaſtery (where ſhe could not be admitted without changing her Religion) and left her there, on great Aſſurances of ſending for her Home in a ſhort Time, and ſo parted with great Expreſſions of Kindneſs.

That a conſiderable Time after, by the Dukes Conſent, ſhe return'd into *England*, and liv'd retiredly at *Drayton* in *Northamptonſhire*; and at the Time of the Revolution, ſhe again retir'd to *France*, where ſhe continu'd, 'till ſhe heard of her Father's Impriſonment in the *Tower*, and then came back to *England*, and liv'd privately, 'till her Father obtain'd his Liberty, when ſhe came Home to him.

That on the 8th of *January*, 1691, the Duke was prevail'd on, by the inſtigation of her Enemies, to exhibit a Bill in the Houſe of Peers, to the ſame Effect with the Bill now depending, and divers Witneſſes were examin'd on both Sides; after which, and a long ſolemn Debate, and due Conſideration had by their Lordſhips of the Witneſſes, and what was Sworn by them, the 17th of *February*, they

they were pleas'd to reject the Bill without a ſecond reading.

Notwithſtanding which, the Duke was again prevail'd on, the 22d of *December*, 1692, to exhibit a ſecond Bill in the Houſe of Peers, to the ſame Effect with his firſt; which, after ſeveral Debates, was, the ſecond of *January* following, again rejected.

Some Time after this, and for accommodating all Differences between them, Propoſals were made to the Dutcheſs, which, after long Agitation, on the 28th of *April*, 1694, were reduc'd into Writing, and executed by the Duke and Dutcheſs: The Preamble of which Articles, is in the Words following. *Whereas diverſe Controverſies, Debates, Demands, and Suits of ſeveral Natures, have for ſome Time ſince been agitated and continu'd, between the ſaid Duke, and the ſaid Dutcheſs his Wife, &c. unto all which, it is at laſt held fitting (it being conducible to their reſpective quiets and eaſe) to have an End put, and the like for the future prevented. It is therefore hereby, and by the Parties to theſe Preſents, declar'd and agreed in manner following*; whereby the Dutcheſs convey'd to the Duke's Uſe, the Mannor of *Caſtle-Riſing*, &c. And alſo the ſaid Dutcheſs, and her Truſtees, aſſign'd their Intereſt in a conſiderable Part of the Mannor of *Sheffield* in *Yorkſhire*, to

the Uſe of the ſaid Duke. So that by theſe Articles, and that Deed executed thereupon, the Duke had his then deſir'd Advantages.

That after the Execution of theſe Articles, the Dutcheſs ſent for one Mr. *Negus*, the Duke's principal Gentleman, and expreſs'd her ſelf very ſenſible of the Misfortunes of the Duke and her ſelf, and deſir'd Mr. *Negus* to tell the Duke, that ſhe would avoid all Company that ſhould give him any Offence; and that ſhe would not ſo much as pay a Viſit, but where he lik'd; which Mr. *Negus* lately teſtify'd before the Lords, and that he acquainted the Duke with it; as alſo that ſhe had ſeveral Times told him, if ſhe dy'd firſt, ſhe would leave the Duke her Eſtate.

That notwithſtanding the ſaid Agreements, whereby the Duke and and Dutcheſs agreed to live ſeparately, yet without his ſignifying any Diſſatisfaction to or with the Dutcheſs, or without any manner of Notice, or previous Proceeding in the common and ordinary Courſe of Juſtice, but by taking from her that legal Tryal in the Eccleſiaſtical Court, which by the Laws of this Realm ſhe is entitled unto, he did, on the 16th of *February* laſt, exhibit in the Houſe of Peers the Bill now depending for Diſſolving the Duke's Marriage with the Dutcheſs, and

for

for enabling him to marry again. Upon which the Proceedings were ſo very quick, two Foreigners (*a* French *Foot-man and a* Dutch-*Cook-Maid)* lately brought from beyond Sea, being forthwith examin'd againſt her, charging her with Facts ſuppos'd to be committed many Years ſince, and long before the Date of the ſaid Agreement, and on which the two former Bills were founded, that it was impoſſible for her to make her Defence as ſhe might have done, if the Proceedings had been againſt her according to the known Laws of this Land.

The Dutcheſs thought herſelf under a Neceſſity of complying with all the Orders of the Houſe of Peers; and accordingly, as well as ſhe could, made her Defence, tho' leſs than a Week's Time was allow'd her for doing it; and upon examining the Evidence of the Duke's Witneſſes, many Contradictions appear'd, ſome whereof follow, as doth appear by the Depoſitions taken in Writing, and now remaining in the *Houſe of Peers.*

For *Hauſeur* the Footman ſwears the Dutcheſs was at the Cock-pit, when and before he came to live with Sir *John Germaine*, and that he continued there fifteen Days after, and that after the Dutcheſs left the Cock-pit ſhe went to *Vaux-Hall.*

Vaneſs the Cook-Maid ſwears *Hauſeur* came to Sir *John* when the Dutcheſs was at *Vaux-Hall.*

Hauſeur ſwears, that on the 8th of *Feb.* 1692, he left Sir *John*'s Service, when the Tryal was between the Duke and Dutcheſs in Parliament, and after liv'd privately ſix or eight Weeks, 'till he and *Vaneß* could get for *Holland*, and arriv'd there in *Eaſter* following.

And yet, in another Place, he ſwore he deſir'd Leave to go, and afterwards that he alſo went for *Holland*, as ſoon as the Wind was fair.

But note, all the Evidence was clos'd and order'd to be ſumm'd up the 9th of *February*; ſo that he need not afterwards to have gone. And whereas he inſinuates,

Note, It doth no where appear, that either he, or *Vaneß*, were ever thought on for Witneſſes.

that he and *Vaneß* were ſecreted, and kept from being Witneſſes:

Hauſeur ſwears he return'd again to Sir *John* in Summer 92, being often ſent to by Sir *John*.

Whereas *Payly*, another of the Duke's Witneſſes, ſwears he did not return again to Sir *John* in two Years after he went away, *Bayly*, the Witneſs, being all that Time, and three Years before, a Servant in the Houſe.

Note alſo, That this very Summer 92, to wit, in *Eaſter* Term, the Duke brought his Action againſt Sir *John*, which was try'd

try'd *Michaelmas* Term 92; at which Time it had been more likely, if Sir *John* had believ'd he could have done him any Harm, he ſhould have kept in *Holland*, rather than have ſent for him over; eſpecially, conſidering that this Fellow afterwards ſwears, Sir *John* ſwore in a Rage this Fellow would betray him.

Hauſeur being aſk'd who ſent for *Vaneſs* over,

He anſwer'd, That after he had promis'd the Duke and Lord *Howard*, to ſpeak the Truth of what he knew, they deſir'd him, if he met *Vaneſs*, to deſire her to come over, and ſpeak the Truth of what ſhe knew.

And being aſk'd how long after he met *Vaneſs*, anſwer'd, About 12 Months ſince.

And being aſk'd when was the firſt Time he ſpoke to her about her coming over to ſpeak the Truth, anſwer'd, 'Tis about a Year ſince.

And being aſk'd how long it was ſince they reſolv'd to come over, anſwer'd, 12 Months.

Vaneſs being aſk'd, whether ſhe was not ſent for from *Holland* to be a Witneſs, anſwer'd, She knew nothing of it 'till eight or nine Weeks ago.

Vaneſs ſwears ſhe was ſent away on Account of the Tryal.

Whereas

Whereas *Peacock*, *Hawkeſworth*, and *Knight*, three Servants of the Dutcheſs, ſwore the Dutcheſs turn'd her away before the Tryal, for keeping Company with *Dutch* Soldiers, and they do ſwear a new Cook-maid there before the Tryal.

Hauſeur ſwears he had a Key of the Door going into the *Park*, and could come in when he would,

And yet owns, he knew but two of the Servants, one whereof is long ſince dead.

And alſo the Dutcheſs's Servants ſwear they never heard any Body had a Key, and that if any Key had been, they muſt have known of it; they alſo prove the ſhutting up, bolting and chaining the Door every Night, and opening it every Morning; and but one of the Servants remembers ever to have ſeen him at the Door, and then he rung the Bell, but came only to ſee a Country-woman of his, and to carry Letters to *Holland*, and brought Anſwer back to her, but was not admitted beyond the Paſſage.

Hauſeur and *Vaneß* ſwear they ſaw the Dutcheſs and Sir *John* in Bed together at *Mill-bank*.

The Dutcheſs's Woman ſwore ſhe has put the Dutcheſs to Bed, and taken her up every Night and Morning ſeveral Years, and never ſaw him in the Houſe. And two others ſwear they were conſtantly in waiting

waiting Night and Morning, and poſitively deny any Knowledge of any ſuch thing, and ſay they never ſaw *Hauſeur* there, and that *Vaneſs* was never admitted up Stairs, ſhe was ſo dirty a Creature, much leſs to dreſs or undreſs the Dutcheſs, as ſhe pretended often to have done.

Vaneſs ſwears ſhe could not tell the Places ſhe has been at theſe ſix Weeks laſt paſt. Whereas

Mr. *May*, and two other of the Duke's Servants, ſwear ſhe has been fourteen Days in the Duke's own Houſe, with the full Liberty of the Houſe.

Vaneſs being aſk'd whether ſhe ever told any body of the Occaſion of her going away, ſhe ſwore, yes, ſhe told it to a great many in *Holland*, and not here.

Yet being afterwards ask'd, whether ſhe ever diſcover'd that ſhe was ſent out of the Way, ſhe ſwore directly, No.

Theſe are ſome of the many plain Contradictions and Diſproofs of theſe Evidences, beſides the great Improbability in their own Nature in ſeveral Things ſworn.

But it is alſo to be noted, that *Hauſeur* left Sir *John*'s Service in a Diſguſt; and ſo it is prov'd by *Baily*, another of the Duke's Witneſſes; and that what *Hauſeur* ſwore, could be nothing but Spight and Malice. Yea, it is prov'd, on the Dutcheſs's Part, that he ſwore he would find a Way to be

reveng'd

reveng'd of him, and that perhaps it might not be long first; and Mr. *Strange*, Mrs. *Pitts*, and her two Maids, who could have depos'd very materially for the Dutcheſs, refus'd to appear, tho often ſummon'd; being Perſons not in the Dutcheſs's Intereſt or Power.

This *Hauſeur* has been out of Place ever ſince he left Sir *John*'s Service, *April* 96, and is ſo ſtill, as he ſwears: And ſo in Conſequence likely to be neceſſitous.

Note alſo, That *Hauſeur* ſwears Sir *John* gave him ſeven Guineas to pay the Charges of himſelf, *Vaneſs*, and another, who were order'd to be kept private, 'till they could be ſhipp'd off, and alſo for their Paſſage into *Holland*, which was, in Time, from the 8th of *Feb.* 92, 'till *Eaſter*.

Which does not look like a Bribe for a Secret of this Nature, being hardly ſufficient to maintain three People, and pay their Lodgings, for two Months.

Hauſeur would be thought a mighty Confident, ſo as to have a Key to the Dutcheſs's Houſe, to come in and go out when he pleas'd; and yet, as well acquainted as he pretended to be with the Houſe, and the Dutcheſs's Bed-Chamber, he could not tell on what Floor it was, nor what Furniture it had, nor whether wainſcotted or hang'd: And when he was aſk'd, which Way the Windows of the Bed-chamber look'd

look'd to, he trifled in that Queſtion, and concluded he could ſee the Water, but was afraid to go near the Window for Fear of being diſcover'd, and yet had no Scruple of coming into the Houſe with his Key at any Time.

Theſe Things being obſerv'd, it muſt be conſider'd, that the Facts now in Effect charg'd againſt the Dutcheſs, are ſuggeſted to be done many Years ſince, and were delated and conſider'd before the Peers, before the Rejection of the two firſt Bills, and long before the Agreement for putting an End to all Controverſies and Debates. Now 'tis very hard to put the Dutcheſs to Account again, for thoſe very Facts, conſidering that, after eight or nine Years, many People are dead, others diſpers'd, and not in a little time to be found out, and Circumſtances of Times and Places (which in the Nature of all theſe Caſes is almoſt all that is left to diſcover a Falſity) forgot.

The Dutcheſs is alſo under the unavoidable Neceſſity of proving a Negative againſt downright Swearing, and without any Matter introductory; and alſo by two mean Servants, the one turn'd out of her Place for keeping Company with Foot-Soldiers, and the other leaving his Place in Diſguſt, becauſe he could not have the Play-Money.

Maſters

Maſters are already too much in the Power of their Servants, and if they charge their Maſters with Adultery, Felony, and even Treaſon, it is not eaſily in the Power of the Maſter to defend himſelf againſt downright Swearing; Servants having thoſe Opportunities of the Knowledge of Times, and Places, and Company, which cannot be deny'd or avoided, and which others have not, whereupon they may frame and build falſe Evidence, and many Times are of ill Principles and deſperate Fortunes, and of Tempers very revengeful; ſo that whoever turns away a Servant, he is in his Power for his Eſtate, Honour, and even Life itſelf. And therefore, for the Safety and Freedom of Families, in other Countries they are not permitted to be Evidence againſt their Maſters in any Matter criminal whatſoever.

Note alſo, That the Dutcheſs thinks ſhe, as an *Engliſh* Subject, has, by *Magna Charta*, the ſame Right to a Tryal, in the legal and ordinary Way of Juſtice, as the reſt of the King's Subjects, eſpecially conſidering that there never yet was in *England* one Precedent of a Bill exhibited in Parliament to diſſolve a Marriage at the firſt Inſtance, without any previous Proceedings in the Eccleſiaſtical Courts; (which in theſe Caſes is the Law of the Land) and not above five or ſix Bills, in

in above 600 Years, ever paſs'd to diſſolve Marriages, or make ſecond Marriages good, even after there had been a Divorce in the Spiritual Courts; and thoſe Bills too, in Caſes generally where the Huſbands were without any Re-crimination.

No Impediment appears why the Duke ſhould not have endeavour'd a Divorce at Law, before he had attempted a Bill to diſſolve the Marriage. For any Application to the Legiſlature, for Tryal of Matters of private Right, is improper; becauſe there are proper Judicatures, that give that Remedy the Law allows.

To aſk any thing of the Legiſlature, in private Cauſes between Party and Party, beyond what the known Laws in Force give, ſeems to be improper; becauſe,

1. It is to make a Law in one Perſon's Caſe, which is not the Law in another's.

2. It is to retroſpect Actions, and, after the Fact, to augment or alter the Penalty. Our Laws are certain and known, that Perſons may conform their Actions to them.

3. The Courts and Forms of Law are equally the Subjects Right with the Law; and the Application to the Legiſlature takes away all that Right of Form and Charging; whereas a Certainty in Time to anſwer, and Exceptions to Witneſſes, and

and other legal Defences of the Fact, cannot be deny'd the meaneſt Subject.

The Conſequence that ſhort and ſummary Ways of Proceedings may have on the Settlements of Eſtates and Families, may be very dangerous; and tho' the Duke of *Norfolk*'s Bill paſs'd the Houſe of Peers, yet a great Number of the Peers both Spiritual and Temporal, enter'd their Proteſt againſt its Paſſing, and their Reaſons for it.

It ought to be no Prejudice to the Dutcheſs, that the next Heir preſumptive to the Duke, doth not as yet appear to be a Proteſtant; becauſe when the Bill, which hath lately paſs'd both Houſes, is become a Law, it is not likely that noble Family will be without a Proteſtant at the Head of it.

If any of the Witneſſes formerly examin'd on the Bill in 1694, be now again produc'd; it is humbly apprehended, that as the Validity of their Teſtimony they then gave, was totally overthrown by a greater Number of Witneſſes, ſo it will be again; tho' under the Diſadvantage of the great Diſtance of Time.

An

An ANSWER *to a printed Paper, entituled,* The CASE of *MARY* Dutcheſs of NORFOLK.

IF notorious Untruths, and falſe Inferences, deſerve the Name of a ſcandalous Libel, the ſaid printed Caſe is one.

The Caſe ſets forth, That her Father, the late Earl of *Peterborough*, paid 10000 *l.* in Money, and ſettled near 1000 *l. per Ann.* in Lands, the Remainder thereof to the Duke and his Heirs; and a Perſonal Eſtate of 10000 *l.* (after the Deceaſe of the ſaid Earl and Counteſs) and alſo 1000 *l. per Ann.* for twenty Years: Beſides very rich Jewels, Plate, and other Things of great Value, which the ſaid Dutcheſs brought into the Duke's Family. And it's pretended, that her Grace hath, ſince her Separation, paid great Debts that had been contracted for the Support of the Duke's Honour and his Service.

Anſw. Neither the Duke, nor his Father, receiv'd from her Grace's Family any more than 10000 *l.* to evidence which, if the Duke pays back the 10000 *l.* as the Bill directs, then her Eſtate is as entire, and free

free to all Intents, as if he had never mar. ry'd her.

As to his having 1000 *l. per Ann.* for twenty Years to his Uſe, as is pretended, the Duke abſolutely denies it; or that he has Jewels, Plate, or any thing of five Pounds Value from her or her Family: But ſoon after they marry'd, he was oblig'd to borrow 1500 *l.* to buy Linnen and Houſhold-Goods.

That within three Years, which happen'd between the late Duke's Death, and the parting of the Duke and Dutcheſs, ſhe ran him out by extravagant Expences, near 30000 *l.* above his Income; to pay which, oblig'd him to ſell his Life in 2400 *l. per Ann.* out of his Eſtate in *Suſſex* and *Yorkſhire.*

That ſhe has been ſo far from paying any Debts for his Honour and Service, that he has been ſu'd, and forc'd to pay ſeveral conſiderable Sums to Trades-men (contracted by her without his Privacy) tho' ſhe had a 1000 *l.* a Year Pin-money all the while.

That upon her Refuſal to go into the Country, and her Father's refuſing to receive her in any Houſe of his, ſhe at her own Requeſt choſe to go into *France.* But the Duke did not concern himſelf whether ſhe came back, or not, nor ever heard of her Change of Religion, 'till he felt it (as well

well as heard it) by her ſuing him before the High-Commiſſion'd Court of Alimony, which forc'd him to retire beyond-Sea, from whence he return'd about two Months before the King's Landing

It is a great Aſſurance that the Dutcheſs's Agents have, to mention what was ſworn by her Servants, as diſproving *Hauſeur* and *Vaneſs*; when it appear'd ſo plainly, that they were taught a Leſſon which they greatly miſtook; and inſtead of diſapproving, confirm'd the chief Part of the others Evidence.

And it's Pleaſant, that inſtead of *Suſannah Barrington*, who has been charg'd with the Privacy of the whole Intrigue, and appears to have been in the Dutcheſs's Service all along, and likewiſe ſince the bringing in this Bill, they ſhould advance that infamous Witneſs *Frances Knight* to the Dutcheſs's Woman.

What they ſay of *Bayly*'s contradicting *Hauſeur*, is upon a Miſtake, which *Bayly* himſelf ſoon corrected: And the Dutcheſs's Servants were ſo far from proving the *Dutch*-Woman *Vaneſs* turn'd away before the reſecting the laſt Bill, that one of the Dutcheſs's Witneſſes proves her to have been the Dutcheſs's Servant while that Bill was depending.

Man tis

Martis 19 *Die Martii*, 1699.

The Reading the Bill for diſſolving the Marriage of the Duke of *Norfolk*, the ſecond Time, and hearing Council, as well on Behalf of the Dutcheſs againſt the Bill, as on behalf of the Duke for the Bill, being the Order of the Day, before the Council was call'd in; to prevent the Inconvenience of People crouding into the Houſe, the Houſe made an Order,

That none but the Council, Solicitors, and Parties ſhould be call'd in; and that the Witneſſes ſhould have Notice to attend without, ready to be call'd in, if the Houſe ſhould think fit.

It was alſo intimated, That if the Duke and Dutcheſs did think fit to come into the Houſe, they ſhould be accommodated with Chairs, that being a Reſpect ſhew'd to the Nobility when they come into the Houſe.

And then the Council, and Solicitors, and Parties of both Sides, were call'd in; and firſt the Bill was read to them.

And then the Lady Dutcheſs's Petition was read.

The

The Council that appear'd, were

Sir *Thomas Powys*,
Mr. *Dod*,
Dr. *Pinfold*,
} For the Dutcheſs.

Mr. Serj. *Wright*,
Mr. *Northey*,
Mr. *Alwood*,
Dr. *Oldiſh*,
} For the Duke.

And Mr. *Speaker* then ſpake to this Effect.

Mr. *Speaker*.] You are there, I ſee, Council on both Sides. The Houſe have order'd, That my Lady Dutcheſs ſhould be heard, according to the Prayer of her Petition; and my Lord Duke had likewiſe an Order to be heard to make good his Bill. I think the Petitioner is to be heard firſt, to make good the Allegations of her Petition; and when the Houſe have heard you both, as to that, they will conſider whether they will proceed to hear the Allegations of the Bill made out.

Sir *Thomas Powys*.] Mr. *Speaker*, with your Favour, Sir, I am of Council with the Petitioner, the Dutcheſs of *Norfolk*, againſt this Bill that is now before you; and I believe I may ſay, with ſome Aſſurance, that

this Bill, in the Manner as it is now brought before you, is the firſt that ever was attempted in this honourable Houſe. It's true, Sir, that ſeveral Years ago, this Bill, or another of the ſame Nature, was attempted twice in the other Houſe, and as often rejected; but 'tis as true, at laſt, it does come from thence hither, but not without a Proteſtation there; and I humbly hope you will take Notice, that this is a Bill of Divorce in Parliament, in the firſt Inſtance, without a previous Proſecution, to examine the Fact in any of the ordinary Courts, that have Authority in theſe Matters.

It is a Bill, not only to divorce the Dutcheſs upon a very ſhort Warning, who hath been a Wife twenty three Years, but to render her infamous to all Poſterity, by Act of Parliament; which I account to be the greateſt Misfortune poſſible to befal any Perſon; and, at the ſame Time, it takes from her the legal Tryal of the Fact whereof ſhe is accus'd, and which ſhe hath a Right to, by the Law of the Land, ſure as much as the meaneſt Subject; and which we don't apprehend ſhe has in any wiſe forfeited; nor is there any Reaſon aſſign'd, why his Grace has not been pleas'd to proceed in the ordinary Courſe. I hope, Sir, you will take Notice alſo, that this is, in Truth, nothing but a Suit between Party and

and Party. 'Tis meerly a Cauſe matrimonial between Huſband and Wife, began originally in the Houſe of Peers; and as hitherto, the Beginning of Cauſes between Party and Party, in that Houſe, hath been ſtrongly oppos'd; ſo, I hope, it will be thought reaſonable to do ſo always; becauſe it deprives the Subject of that legal Defence due to him by the Law of the Land. If this was always complain'd of, when the Proceedings were in a Judicial Way; ſurely, 'tis a great deal worſe, to begin there a private Cauſe between Party and Party in the Legiſlative Way. I can ſee no manner of Difference, with reſpect to the Loſs of thoſe great Advantages the Party is intitul'd to, only this ſeems rather to be the moſt againſt Reaſon.

Sir, This is a ſummary Proceeding with a Witneſs: It began but the 16th of *Februa-ry*, and but a Week's Time was given to the Party accus'd of ſo high a Crime, and of ſo great Conſequence to the Party accus'd, to be heard to it; and tho', perhaps, we may, with Reaſon enough, find Fault with the tedious Proceedings in ſome Courts, where Appeals and Writs of Error are juſtly due; as where Property is well fix'd, it muſt needs be reaſonable. I ſay, from various Cauſes, tho' Suits in the ordinary Courts are very tedious; yet, I am ſure, a ſummary Way of Proceeding without due

Warning, or any certain Way of making Defence by any known Rules, and without Oath, as here, without Appeal, without any Poſſibility of retrieving the Matter again, with great Submiſſion. And if this muſt be for all that one has in the World, ſuch a ſummary Way is a very terrible Thing.

I would be glad any would make it their own Caſe, and think with themſelves, how they ſhould like it, if their Life, Eſtate, and all they had, were put upon ſuch a ſummary Way of Proceeding. 'Tis true, in ſome Kingdoms, where the Government is Arbitrary, the Proceedings are ſummarily, and moſt commonly they go together; and if we were in a Place where the Judges were infallible, and there were no falſe Witneſſes, and Truth could be diſcover'd at an Inſtant, a ſummary Way would be beſt; but ſince Men are fallible, ſince there is Paſſion and Partiality in the World, ſince oftentimes there are notorious Detections of Perjury, and ſeveral Things are difficult to be diſclos'd, and require a reaſonable Time for examining into Facts; from thence it is, that there are ſettled Courſes for determining all Queſtions in *England*, between Party and Party; and there are known Rules and good Methods for relieving againſt any ill Judgment that is given.

Whatever

Whatever you may think of this particular Caſe of the Dutcheſs of *Norfolk*; the Example is of mighty Conſequence to all Parents, that, perhaps, make hard Shift to give their Daughters conſiderable Portions, and may think they have marry'd them well, and made Proviſion for them and their Children. I ſay it will be hard, if their Daughters ſhould be ſent Home to them upon a Fortnight's Warning; and that Witneſſes ſhould be examin'd againſt them, without their having Notice ſo much as of the Places of their Abode; and a Thing ſhould be determin'd, before the Witneſſes can be well known. And it muſt be agreed to be of great Conſequence to all Colateral Heirs, if Marriages are ſo eaſily and ſuddenly ſet aſide for want of Iſſue, which I find to be one of the Cauſes aſſign'd for this Bill; and that it may be in a ſummary Way, perhaps, before they can well hear of it. I am ſure, this is a Matter of too great Temptation, to be put upon Men that may grow weary of their Wives, and deſire a better Fortune, or deſire Change, or may be mov'd by a thouſand Reaſons we can't think off, to revive old Quarrels, and think of Things long ſince paſs'd, if you will ſet ſuch a Precedent of Divorcing in ſuch a ſummary Way.

This is ſure of infinite Concern to us in higher Matters. A Bill of Divorce of a

Woman in Parliament, without a legal Tryal, is juſt the ſame Thing, as a Bill of Attainder againſt a Man for Treaſon; the one forfeits the Eſtate, corrupts the Blood, and takes away his Life; and the other does very little leſs: For, I find, according to the Bill, 'tis to forfeit her Jointure, to defame her Perſon, corrupt her Reputation; and tho' it leave her Life, it is left with Infamy, which is worſe than Death; and in a Caſe of this high Moment, ſure you will be careful how you alter the Courſe of Tryals. I beſeech you, Sir, will not the Reaſon be the ſame, that a Bill of Attainder may be brought againſt a Man, and that Witneſſes againſt him may be fetch'd from beyond-Sea, which he had formerly diſcharg'd from his Service; and put the other Side to prove what is always very difficult, the Negative, to make his Defence, which muſt needs require a reaſonable Time for the making out of Circumſtances, and laying Evidence together? Where will be the Difference between proceeding againſt a Man for his Life without a Tryal, and proceeding againſt a Woman for her Joynture, where her Name, Family, and Reputation is concern'd; and perhaps her Children, the Legitimacy of whom muſt come in Queſtion? And, in a Caſe, where the Perſon, by no Behaviour of hers, hath forfeited ſuch a Tryal, nor the Perſon, that

proſecutes

proſecutes this Bill, can't ſhew that he hath been obſtructed in his proceeding in the ordinary Way. I need not take Notice of what every Body knows, That we have a happy Conſtitution, if we can keep it; every Man can call his Wife his own, and his Eſtate his own; becauſe it can't be taken away, but by legal Tryal: But if you will go into theſe extraordinary Reſorts, when the Courts and the Law is open, without any previous Preparations for that Matter, by having a fair Examination, that the Party can't ſay there is a Surpriſe, I know not where it will end; and tho' in one Caſe it may be deſirable, that there ſhould be an extraordinary Relief; but will this go no farther? Can any ſay that?

That which we find in *Magna Charta* is not to be forgot, where there is ſo much Care in the ſeveral Inſtances of it for the preſerving of Property, and the Right of Tryals, *Quod nullus deſtruatur, nec ſuper eum ibimus, nec ſuper eum mittemus, niſi per legale judicium parium ſuorum vel per legem terræ.*

Why? In this Caſe, the Eccleſiaſtical Law is *Lex Terræ*: And if that be to be taken away, without any Reaſon, why may not the Law in any other Caſe.

We have, perhaps, in Time of great Emergency and publick Difficulties, had

ſome extraordinary Laws, grounded on extraordinary Reaſons; but now we are in a Time of ſettled Peace, when there may be a juſt Determination, according to the Law of the Land, I can't ſee any Reaſon for this Proceeding, no, not in this particular Caſe.

I would, Sir, with your Favour, take Notice of thoſe few Inſtances of this Kind, that have been in *England*, by Act of Parliament, and in what Manner they have proceeded.

There have not paſs'd hardly ſix in ſix hundred Years, I think I may challenge them, on the other Side, to ſhew ſo great a Number; but thoſe I have I ſhall quote: But they proceeded in another Manner than this has done.

'Tis true, where Perſons have had a fair Tryal in a proper Court, and Witneſſes have been examin'd, and Sentence final been pronounc'd, and where the Party, as to the Fact, hath been concluded according to the Law of the Land; when all this hath paſs'd, ſome Inſtances there have been, that afterwards an Act of Parliament has paſs'd to ſtrengthen the Sentence, and to carry it farther than the Eccleſiaſtical Courts will allow, even to the diſſolving the Marriage, and enabling the innocent Perſon to marry again; but you will find all thoſe Acts are founded and built

built upon the Sentence in thoſe Courts, and recite thoſe Sentences, as a great Inducement to the paſſing of thoſe Acts; and I crave Leave juſt to take Notice of thoſe. The firſt we find, is that made in the Caſe of the Marquis of *Northampton*, which was in 5 *E.* 6. He was marry'd to a Daughter of the Earl of *Eſſex*, and ſhe elop'd from him, and was proſecuted in the Eccleſiaſtical Courts, and there was Sentence againſt her of Divorce. The Marquis from hence took upon him to marry a Daughter of the Lord *Cobham*; and after four Years Marriage of her, he obtain'd an Act of Parliament to ratify the ſecond Marriage, which Act recites a Settlement of Divorce in the Eccleſiaſtical Court.

This took its Riſe from Examination according to Law; and that Act of Parliament is grounded upon it, and recites it as a previous Matter neceſſary to induce that Act.

The next, that follows, was the famous Caſe of the Lord *Roſs*, afterwards Earl of *Rutland*, tho' there, perhaps, was as great a Notoriety of Fact as can be pretended in this Caſe; and he did not ſtand impeach'd of any immodeſt Behaviour; but, even in that Caſe, the Divorce by the Act follow'd a Divorce in the Eccleſiaſtical Court; and that paſs'd with ſuch Difficulty, that it was four Years in Hand; it began in 66,

and was not paſs'd 'till 70. I have a Copy of it, and it ſays, that foraſmuch as *Mannors*, commonly call'd L. *Roſs*.

And it proceeds thereupon to enable him to marry again: But this, Sir, could not be, but by two Acts of Parliament, beſides the Sentence in the Eccleſiaſtical Court; for he firſt got that Court to declare the Children illegitimate, and then, in the Year 70, the Parliament paſs'd this Act.

I know of no other, 'till we come to a Caſe that happen'd within our Memory; 'tis the Caſe of a Perſon of great Worth, and I hope it will give no Offence when I cite the Precedent.

It was the Caſe of Mr. *Lukenor*, who had been groſsly abus'd by his Wife, by Elopement, and open Adultery; but the Act he obtain'd went no farther, than to diſable the Children born while ſhe liv'd in open Adultery; and that Act recites a Sentence of Divorce; I have the Copy of it, and I crave leave I may read a few Lines of it; it recites, that Mr. *Lukenor*'s Wife had elop'd from her Huſband.

There was, indeed, a famous Caſe not long ago, of a Lady that was taken away by Force, and pretended to be marry'd; and an Act of Parliament came afterwards to declare that Marriage null and void; but even there was a Proceeding at Law with

with a Witneſs; the Perſon that had been concern'd, was actually indicted, and executed: It was not there to make a Divorce; and ſo it had been a vain Thing, to have gone into the Spiritual Court, where there was no Marriage; for it was only a Law after the Fact, Declaratory, by Way of Caution, to give the more Satisfaction that that Marriage was null and void.

Sir, the laſt I know of (and it may be proper for you to obſerve how quick theſe People come after it) was that of a noble Earl, that did obtain laſt Parliament an Act for divorcing him and his Lady. It is the Caſe of the Earl of *Macclesfield*; but in that Caſe it will be proper to take Notice to you, that there were previous Proceedings in the Eccleſiaſtical Court; there was a Libel exhibited againſt her, a Charge upon her, and Witneſſes examin'd, and ſhe had a fair Opportunity of making her Defence; there was a regular and a long Proceeding againſt her, and a Proſecution of her, in Order to a Sentence of Excommunication; and then there came the Earl's Petition into the Houſe of Peers, ſetting forth, that there had been ſuch a Proceeding as this, and that ſhe ſtood in Contempt, having been proſecuted as far as that Court could go, after an Examination of Witneſſes. In all the Caſes I have heard of a Divorce by Act of Parliment,

there have been Proceedings in the Eccleſiaſtical Court. This was the Way of former Times, but now we are beginning where the Matter ought to end.

And now the firſt Application is to that Place, wherein all theſe Inſtances (as I think it ought to be) was the laſt Reſort. 'Tis true, this Method may not pleaſe the Duke; for we know his Grace is in haſte, and for cutting the Knot aſunder at once by the Legiſlative Power; but, I hope, upon theſe Precedents, you will think it more reaſonable it ſhould be at firſt unty'd, or, at leaſt, looſen'd by a judicial Proceeding. If you will, I do not ſee how, in Juſtice, the Parliament can deny the like Remedy the next Seſſions to any other that may be in the like Caſe, it may be in worſe; for here is no Pretence of any ſpurious Iſſue. Can the Parliament of *Engliament*, whence we take our Meaſures of Juſtice, deny the like Remedy in Juſtice to any others that are in the like Caſe? What is it that guards you from an infinite Application of this Nature, but requiring Perſons to take the ordinary Courſe firſt; and to come round about to the Parliament, as the laſt Remedy, to carry the Sentence, perhaps, farther than the Eccleſiaſtical Court can do? But if Perſons may come up directly hither, I am apt to think your Lobby will be crowded with Petitioners of this

this Nature the next Seſſions; tho' the Seſſions now are long and frequent, this ſingle Buſineſs may be ſo great as to obſtruct all other Buſineſs; I am ſure, a Committee for Adultery would have a full Employment.

Let it be conſider'd, how ſtrange it would be if ſome Poor Man, upon this Precedent, ſhould come and make Application, and tell you, he ſtands in Need of ſuch a Bill from the Condition of his Family; that his Wife plunders his Houſe, ſells his Goods, and lives in Adultery; and prays this Matter may be examin'd in a ſummary Way, becauſe he is not able to go through the coſtly Courſe of Eccleſiaſtical Courts, and be favour'd with a Divorce: Would not this poor Man's Caſe ſeem to have the like Juſtice, or poſſibly more? And yet, if ſuch a mean Man ſhould come with ſuch a Petition, perhaps, it would look ſtrange; and yet, in Juſtice, there is no Reſpect of Perſons; the Law in *England* is, *unum pondus & una menſura*; and if this ſhould be done in the Caſe of a great and rich Man, and not for a poor Man, they may ſay what hath been ſaid by ſome, That our Laws are like the Spider's Web, which only holds the leſſer Inſects.

Shall thoſe that expect the beſt Fortunes and greateſt Advantage by Marriage, not undergo the bad Fortune of Marriage too?

I am

I am ſure, if this be ſo, it's a Privilege of Peerage never thought of before.

You may ſee, Sir, by this Bill, how Precedents grow upon you. At firſt, in the Caſe of the Marquis of *Northampton*, it was hard to get an Act after a Divorce: So it was in the Caſe of my Lord *Roſs*: The laſt Seſſions, in the Caſe of the Earl of *Macclesfield* it went farther there; becauſe there had been a previous Proceeding in the Eccleſiaſtical Court, and his Lady had obſtructed that Sentence; that Act paſs'd before Sentence; but now we are come to have it done without ſo much as a Tryal to get a Divorce in the Eccleſiaſtical Courts, to have all paſs'd at once in a ſummary Way, it will be but to petition the Parliament, and all ſhall be determin'd without a Poſſibility of being re-heard.

I know nothing can be ſaid on the other ſide with good Reaſon (unleſs that which I heard in another Place) why they ſhould not go to the Eccleſiaſtical Court, which is, that thoſe Courts cannot divorce a *Vinculo* Matrimony; therefore it would have been a vain Thing. This may be a good Reaſon for them to come to you afterwards; but 'tis no Reaſon for them to come here at firſt, unleſs they will ſay at the ſame Time, that every thing ought to be begun in Parliament, becauſe 'tis poſſible every thing may be brought to the Houſe

of

of Peers at laſt. Will they ſay, That all Ejectments ought to be begun originally in the Houſe of Peers; becauſe after the Parties have been at great Charge and Trouble in the Courts below, they may be brought thither by Writ of Error at laſt. This would have been a good Expedient in a Cauſe lately, where a Deed was try'd over and over; if this be the Rule, it would be well it were known, and made to the Law of the Kingdom; for that Law will be always reckon'd hard, which is made in one Caſe, if it may not be had in another; the Law of *England* does go throughout, and if it be Law for one, 'tis for another. I have but one Thing more to lay before you, and that ſeems worthy of your Conſideration, beſides all that I have ſaid.

You obſerve the Bill is general, without Reſtraint of Time and Place, or Deſcription, or Circumſtances relating to the Fact: Now, Sir, I muſt take Leave to acquaint you, That ſo long ago as *April*, 1694, his Grace the Duke, (who complains of this Matter, as if ſome new Misfortune had befal'n him) having made former Complaints and Attempts for obtaining what he now deſires, did, at laſt, in *April*, 1694, not ſuddenly, but by Advice of Council, with his Friends about him, after a long Time of Agitation, come to Articles with

with his Wife the Dutcheſs, of which I crave Leave only to read the Preamble.

The Articles are between his Grace the Duke of *Norfolk*, and the Earl of *Peterborough*, and recites ———

It is therefore determin'd by the Parties, and agreed as followeth; and thereupon the Articles proceed to ſettle every thing between the Duke and Dutcheſs, to his own Satisfaction, and according to his own Deſire.* His Grace hath reap'd the Benefit of thoſe Articles, by having receiv'd a great Sum of Money; and the Dutcheſs parted with her Intereſt in that great and noble Manour of *Sheffeild*; his Grace hath had all that he, on his Part, was to have, and hath executed abundance of Deeds purſuant to this Agreement. Now, if after all this, there be a Proſpect of farther Advantage by another Marriage, that will not move you to give him a Liberty for a Departure from ſo ſolemn an Agreement. In what a Condition are People, that have purchas'd their Peace as the Dutcheſs has, if they may have Liberty to go back beyond this, for the Bill has no ſtint; ſurely, all Reconciliation between Men and their Wives, and all Acts towards them, and all Acts of Kindneſs are to be favour'd, and Matters of Divorce are of an odious Nature,

* Vide *Her printed Caſe* ut infra.

Nature, and not to be encourag'd after ſuch Compoſure of Differences, and Reconciliation. We have Inſtances of ſome that have taken their Wives again, and liv'd comfortably afterwards; ſurely, it ſhall not be in their Power to go back, and ſay, Pray let us be divorc'd. 'Tis contrary to the Uſe of all Acts of Pardon. What is the End of all Acts of Parliament, of general Pardon, and all Statutes of Limitation, but to eaſe the People in ſuch a Caſe? For 'tis impoſſible that any Perſon can be able to defend their Actions nine or ten Years ago, they can't keep their Witneſſes alive, and therefore the Law hath often limited a Time, beyond which, Perſons ſhall not go back; and this we think the Duke hath done by Articles, and ſurely they are concluſive before God and Man.

I ſhall ſay no more, but that I don't apprehend the Nation will be in any great Danger. If the Duke doth, betwixt this and the next Seſſion, proceed in the ordinary Courſe, and prepare Matters againſt another Seſſion; I am ſure 'tis of great Conſequence. No Man can deny, but we have a good Conſtitution; but if it is, in the Caſe of a particular Perſon, to be broken, ſuch a Breach in this Conſtitution may not be very eaſily recover'd.

I hope, this Cauſe, that is precipitated here out of Time, and before thoſe Preparations

parations were made, that have been in all other Caſes, ſhall be remitted to its proper Place, where her Grace will give the Duke a Meeting, if they be not before that reconcil'd.

Mr. *Dod.*

Mr. *Speaker*, I deſire the Favour of a Word of the ſame Side. Theſe Bills are not common; I think there are not above three Inſtances to be found in the Records of this Kingdom.

This Bill is to diſſolve a Marriage after twenty three Years Continuance; and that not upon ſo many Days Notice, as there have been Years of the Marriage, for to ſerve the particular Purpoſes of one Perſon; 'tis a Law after the ſuppos'd Fact committed; the Law ſhould go firſt, and the Fact follow; it is not a general Law for all the People of *England*; as ſuch, it would have another Conſideration; there is no Occaſion for particular Law; 'tis a Bill from the Lords; and, in a little Time, for what I know, the Lords will preſcribe to it; there is not one of theſe Bills for a Commoner, unleſs in my Lord *Roſs*'s Caſe, who was of a noble Family.

'Tis not pretended by this Bill, that the Dutcheſs hath had any ſpurious Iſſue, tho' that was the Circumſtance of one of the Bills that did paſs, and that was a material

rial Circumſtance in the Caſe, and which is not alledg'd here. Theſe Bills are not to be made uſe of, but upon extraordinary Occaſions, and the utmoſt Extremity; and 'till then, I hope, ſuch Bills ſhall not be made uſe of. And we think the Proceeding upon this Bill, in this Caſe, will appear much harder; for 'tis the firſt Inſtance of this Nature, when there has been no Proceeding in any Court whatſoever, to convict the Dutcheſs of this Offence, no Citation all this while in the Eccleſiaſtical Courts, where the Dutcheſs might have an Opportunity to make her Defence.

If thoſe Courts have Juriſdiction in any one Thing, 'tis in Caſe of Matrimony: If this was brought into thoſe Courts, the Dutcheſs would be allow'd to make her Defence, not only by Way of Re-crimination, but Examination of Witneſſes; a Commiſſion might be had to examine Witneſſes beyond-Sea; if ſhe had any Witneſſes there, or in the Country; ſhe might appeal to a ſuperior Court, and thence to the Delegates. Theſe are all proper Defences that the Law allows, that there may be no Surpriſe upon the Party; and if injur'd, he may be righted in another Place. Theſe Proceedings, we think, are neceſſary to go before a Bill of this Nature; for then the Fact would be plain; and if the Dutcheſs had been convicted in this Manner,

Manner, as to the Fact, we muſt not have open'd our Mouths againſt it.

By the ſame Reaſon that a Bill is brought to diſſolve this Marriage, in a little Time you may have a Bill to marry People: Be it enacted for ſuch and ſuch Reaſons, ſuch Perſons ſhall be marry'd: This would be a much readier Way, in Caſe of Contracts, than any Proceedings in the Eccleſiaſtical Courts. And tho' they may ſay, the Law of *England* takes Notice of Contracts of Matrimony, as well as any other Acts, that is no Anſwer; for the Fact is, Whether there is any Contract of Matrimony, or no? And ſo it is here, Whether my Lady is guilty of the Crimes charged here in the Bill? And for this ſhe ought to have a proper Tryal, and ought to be call'd to an Account in the ordinary Methods of Law; and then it might be proper to carry the Sentence farther than thoſe Courts can. I hope you will be very tender of making a new Precedent; and I do not know of any Bill, before this, to convict a Woman of a ſuppos'd Crime; then this is the firſt Bill of this Nature, and you will conſider, whether you will make a Precedent of it, or not. Tho' this before you, is the Caſe of a great and honourable Perſon, yet your Juſtice will be the ſame, if it ſhould happen, that any other Man in the Kingdom ſhould be in the ſame Circumſtances, and willing

to

to ſlip over all Tryals, whereby the Perſon accus'd might have an Opportunity of making her juſt Defence; as is the Caſe of this noble Lady, who is hurry'd on, after twenty three Years Marriage, to a Determination in as many Days, in this extraordinary Manner.

I hope, therefore, you will not proceed in a Bill of this extraordinary Nature, of which there is not one Inſtance to be given, where you have begun to examine a ſuppos'd Crime, but you have always left it to the Determination of the Law in the ordinary Courſe; and we think it ought rather to be ſo in this Caſe; becauſe, 'tis not pretended by the Bill, that there is any Stop put to their Proceedings there; there is no Abſence of Witneſſes, no Incapacity; but his Grace may proceed there, to convict this Lady of the Crime he ſuppoſes her guilty of, and ſhe will there have her juſt Defence; and, till then, there is no Crime for you to judge upon; and, I hope, you will think fit to reject this Bill.

Dr. Pinfold.

Mr. *Speaker*, I deſire to ſpeak a few Words as to the Eccleſiaſtical Law, which is a Part of the Law of *England*, as much as any other; for our Law does not receive *majus & minus*; and the Eccleſiaſtical Courts have been ſettl'd for ſeveral Ages, and

are govern'd by ſuch Rules, which every Subject hath a Right to. Sir, This Bill is to diſſolve the Bond of Marriage, and to give Leave to marry again; and I crave leave to ſhew the Houſe what our Eccleſiaſtical Conſtitutions are in that Caſe, and how tender they have been in that Point, and how thoſe Conſtitutions are grounded upon the Canons and Decrees of Councils.

The Caſes where the Bond of Marriage is to be diſſolv'd, are but few, and they ariſe before Marriage; 'tis in the Caſe of the Pre-contract, or Nonage, or Conſanguinity; and there the Bond is broken by the Sentence of the Judge, and the Perſon hath Liberty to marry again: But for what comes afterwards, whether it be the Caſe of Adultery, or any thing elſe, the Law Eccleſiaſtical, which, as I ſaid before, is Part of the Law of *England*, hath been very careful not to diſſolve the Marriage.

The 48th Canon ſays, If any Lay-man ſhall put away his Wife, and marry another, he ſhall be excommunicated: That was the Senſe of thoſe early Days; and ſure they did not think it an indifferent Matter, becauſe they puniſh'd it with ſo heavy a Puniſhment. So it was in the Council of *Arles*, 314; and there it was decreed, That if a Man took his Wife in Adultery, he ſhould be forbidden to marry. There, what was to be done? Coun-

cil

cil ſhould be given him not to marry while ſhe liv'd, though ſhe was an Adultreſs.

And in the Council 402, the *Neapolitan*, Evangelical, Apoſtolical Council, it was decreed, That if a Man was divorc'd from his Wife, or Wife from her Huſband, they ſhould remain unmarry'd. This was the Senſe of the antient Canons and Councils, and this is receiv'd into our Eccleſiaſtical Conſtitution. In the 15th Year of the Reign of Queen *Elizabeth*, in the Chapter of Divorces, 'tis ſaid, That upon a Sentence of Divorce, there muſt be an Admonition, and a Prohibition, that the Party ſhall not marry again.

And in the Year 1602, in the Beginning of King *James*'s Reign, there was a farther Proviſion made, to keep them from being marry'd again, and that was this, That they ſhould give Bond and Security they ſhould not marry again. This is certainly our Eccleſiaſtical Conſtitution, and grounded on the Senſe of the Ancient Canons.

Now it remains, to ſhew ſome Advantage this would have had, if ſhe had had the Tryal, which, of common Right, is due to the meaneſt Subject; ſhe would have had the Advantage of Challenges, which ſhe can't have here; for here the Evidence muſt drop from the Witneſſes Mouths,

Mouths, who are Foreigners, and have been long abſent; there they muſt give an Account of themſelves, which here hath not been done by any Body. This Lady might have given her Exceptions to thoſe Witneſſes, and had a Commiſſion into *Holland*, to have examin'd how theſe Witneſſes have behav'd themſelves, and whether theſe Perſons were to be believ'd and credited; here ſhe would likewiſe have had Liberty to give an Account how this Deſign began. I do now ſpeak with reſpect to the Duke; but I do ſay, it does ſeem to have began a Year and a half ago. She would likewiſe have had the Advantage of a thorough Reconciliation; and here are ſome Deeds, in 94, between the Duke and the Dutcheſs, which I hope, if the Houſe will take an Accounnt of, will have its due Effect: She would likewiſe have had the Advantage of an Appeal, the common Right of the Subject, and grounded upon good Reaſon; and in caſe there hath been a Neglect in the firſt Inſtances, the Party may be righted in another Place.

By this Bill ſhe is debar'd of the Advantage of Re-crimination, to which ſhe hath a Right; for the Text-Law is —

And the Text-Law, *de Divortiis*, is the ſame, were the Charge moſt true, which we do not admit; yet, if ſhe can prove

prove the ſame thing againſt her Huſband, the Fault of one muſt be ſet againſt the Fault of another, and he can't have the Advantage of his Prayer.

I ſhall repeat only one thing more, and that is the Caſe quoted already of the Earl of *Macclesfield*; but, in that Caſe, the Lady withdrew herſelf five or ſix Days before Sentence; yet there the Lady *Macclesfield* had all her Defences, and even her Recriminations, and had a Time to prove it: There was Publication, and a Day ſet down for Sentence, but ſhe ſpun out the Time 'till the Parliament was ready to riſe, and then my Lord's Friends adviſ'd him to begin in Parliament; and when the Lords were acquainted of my Lady *Macclesfield*'s ſtanding in Contempt of the Court, and ſhe was proſecuted ſo far, that ſhe was almoſt ready to go to Priſon for her Contempt, then the Houſe of Lords did think fit to receive my Lord *Macclesfield*'s Bill, and not before; but before my Lord *Macclesfield* brought his Bill in Parliament, there was nothing remain'd to be done in the Eccleſiaſtical Courts but Sentence. And I hope, for all theſe Reaſons, you will not proceed upon this Bill.

Mr. *Serg. Wright.* Mr. *Speaker*, I am of Council for the Duke of *Norfolk*, who is your Suppliant for this Bill, for Redreſs

againſt the higheſt Injury that can be offer'd; the Rights of his Marriage-Bed have been Invaded; and he comes for that Relief here, which no other Court can afford him; for the Learned Doctor on the other Side, tells you plainly from the Canon Law, that there can be no Divorce, *à Vinculo Matrimonii* in their Courts. Now to ſend us to a Court for Relief, that they tell us before-hand can give us none, is in Effect to tell us, we ſhall have none at all.

The Bill is founded upon the Suggeſtions contain'd in the firſt three or four Lines in the Bill, That the Dutcheſs of *Norfolk*, hath for divers Years liv'd in Separation from the Duke her Huſband, and hath had unlawful Familiarity, and Adulterous Converſation with Sir *John Germaine*, and is Guilty of Adultery on her Part, and hath broken the Bond of Matrimony: Theſe are the Reaſons for which the Duke deſires this Bill may paſs; 'tis for the Adulterous Converſation of the Dutcheſs, not for one ſingle Act, but a continual Series of the like Acts for many Years; for we ſhall not give only one ſingle Act, or Inſtance, in Evidence, but prove this Converſation for ſeveral Years, beginning in Eighty Seven, and carry'd on to the latter End of Ninety Five.

It

It hath been objected, That this is the firſt Inſtance of a Divorce, the firſt Bill of this Kind, where there has been no Proceedings in the Spiritual Court: That 'tis the firſt Bill of this Kind, we deny; but that there have been no Proceedings in the Spritual Court, we own; for the Earl of *Macclefield*'s was the ſame, to all Intents and Purpoſes, as this is; for tho' 'tis true, they had been in the Spiritual Court, yet, 'tis as true, they came here into Parliament, before any Sentence in the Spiritual Court: Now, to what Purpoſe is it to go into the Spiritual Court, and not to ſtay for the Determination of that Court, if the Judgment of that Court is to have any Weight: In the Caſe of the Earl of *Macclesfield*, 'tis true, they had been there, and examin'd Witneſſes on one Side, with all Precipitation; yet would they not ſtay for a Sentence there, but quitted their own Proceedings, and came to the Parliament. Now I do take it, that they had better never been there, than to have come away before Sentence: For when they were in the Spiritual Court, and were proceeding there, to leave that Court, ſhew'd rather a Miſtruſt of their own Caſe. But it was no Objection in that Caſe, That it was taking it away from the Juriſdiction of the Spiritual Court. We don't come to you for any thing the

Spiritual Court can grant us; For that Court goes no farther, if the Fact be prov'd, then to make a Separation *à menſâ & thoro*; but the Bonds of Marriage is to be continu'd ſtill. Now, with Submiſſion, this is to puniſh the Innocent inſtead of the Guilty. What would the Dutcheſs deſire more, than to be ſeparated from the Bed and Board of her Huſband, to be left free to accompany Sir *John Germaine*? But we go farther; for we come to the Parliament to diſſolve this Marriage, for that which is allow'd, by ſeveral learned Writers, to be a juſtifiable Reaſon for ſo doing, for Adultery committed by the Wife, 'tis expreſly ſaid, That *a Man ſhall not put away his Wife, except in Caſe of Fornication.* This Text plainly allows, that, in Caſe of Fornication, a Man might put away his Wife; but the *Popiſh* Canons (the Doctor has nam'd,) have put a Conſtruction upon it; ſay they, you ſhall put her away, but how? She ſhall be remov'd from your Bed and Table, but you ſhall not marry another. Then they ſay, There is no Precedent of a Bill of this Kind, but there hath been a previous Proſecution in the Spiritual Courts; I agree, in the Marquis of *Northampton*'s Caſe, that that Act does recite the Proceedings in the Spiritual Court; but that Caſe is ſtronger than this, for there the Marquis of *Northampton*

thampton had marry'd, even in the Teeth of their Canon Law; and comes afterwards an Act of Parliament to make this Marriage good; and there the Divorce was no Ingredient upon the paſſing of the Bill, but the Parliament Enacted the Marriage to be Lawful. In my Lord *Roſs*'s Caſe, there is no Mention of any Divorce. I appeal to the Journals of your own Houſe for that. But notwithſtanding the Divorce, the whole Matter was examin'd over again; Witneſſes were examin'd, both in the Houſe of Lords, and here, upon the firſt Bill which was brought, which was to Illegitimate, and Baſtardize the Children; and the Witneſſes prov'd, that my Lord *Roſs*, and his Lady, had not laid together for a long Time; and that ſhe had kept Company with others; ſo that the Parliament did not found the Bill upon what had been done upon the Divorce.

I appeal to your own Memory, that in the Earl of *Macclesfield*'s Caſe, there was no Uſe at all on that Side, the Bill was brought, that there had been Proceedings in the Spiritual Court; nor is any ſuch thing recited in the Bill, but only an expreſs down right Charge of Adultery; nor was it proper for them to have mention'd any Proceedings in the Spiritual Court, ſince they wav'd that Proſecution; but we, on the other Side, inſiſted

on it, as a Reaſon why the Parliament ſhould not proceed in it, it being to take upon them an original Juriſdiction; but we were then anſwer'd, by a Learned Gentleman againſt this Bill, That it was in vain to go there, for they could not give the Remedy that might reaſonably be expected. I beg the favour to mention a Caſe or two, where Divorces have been in Parliament, and there have been no Proceedings in the Spiritual Court: One of them was the Caſe of Mrs. *Knight*, who was marry'd *infra Annos Nubiles*, to Mr. *Goodwin*. Every one knows, that a Marriage, *infra Annos Nubiles*, is a good Marriage, and if the Woman be above Nine Years Old, ſhe ſhall be Endowed; and yet, notwithſtanding, for ſome irregular Proceedings, without going into the Spiritual Court, they came into Parliament, and a Bill was paſs'd, by which this Marriage was diſſolv'd, and, I think, 'tis expreſly Enacted, That ſhe ſhall not marry 'till ſuch an Age. This goes farther; for here I am ſure the Doctor would have complain'd, and told you, if there had been Reaſon to diſſolve the Marriage, they could have done as great a Feat in the Spiritual Court; That they could have examin'd Witneſſes upon Oath, and could have told you whether there was proper Evidence; yet

yet the Parliament, without any regard to what they could do, would aſſert their own Juriſdiction.

The Caſe of Mr. *Wharton* was mention'd on the other Side, and therefore I need not ſay any thing to it. There was nothing of Divorce, nor needed any.

They ſay this Bill begins where it is proper for Matters of this Nature to end; and that after we have taken a Turn into the Spiritual Court, and travell'd three or four Years there, then it will be fit for the Judgment of Parliament. I would know if they had been ſeven Years in that Court, (and perhaps if we come there, we ſhall not get out ſooner) to what Uſe the Examination of that Court would be. This Houſe, I preſume, would not let thoſe Depoſitions be read here, eſpecially if the Witneſſes to theſe Facts were living.

They ſay, This is a very ſummary Way of proceeding, it may be too quick for the Dutcheſs; but you may be pleas'd to conſider, that there was a Bill brought into the other Houſe ſome Years ago and rejected; upon what Terms, that will reſt upon us, to ſhew you by and by.

But the Matter was, The Witneſſes that prov'd the Fact were ſent out of the Way by the Dutcheſs and Sir *John Germaine*, when things were under an Examination; and we hope a Matter of this Nature ne-

ver ſhall be baffled, by keeping the Evidence out of the Way.

We told them long ago who the Witneſſes were, they were the Dutcheſs's Servants, ſuch as they thought fit to intruſt.

They ſay this Bill deprives the Dutcheſs of her Tryal. I hope no Body thinks the Parliament will paſs a Bill, without due Examination of Witneſſes, and legal Proof of the Fact; if ſo, what Matter is it, whether the Proof be made before the Parliament, or ſome inferiour Court; if the Dutcheſs be guilty of this Crime, we come here for Relief, which the Spiritual Court, the Doctors tell you, can't give us; ſince the Dutcheſs hath broke the Bond of Matrimony, we come to you to diſſolve that Marriage, and I hope we ſhall have it.

The Doctor hath inſiſted on one Thing that I think is very extraordinary. He tells you by the Rules of their Law, if the Woman can Re-imminate, and prove her Huſband guilty, in ſuch a Caſe, they muſt ſet the Fault of one againſt the Fault of the other.

I wiſh the Doctor could have told you the Offence had been equal; that the Injury to Families had been equal: A Man, by his Folly of this Kind, brings no ſpurious Iſſue to inherit the Lands of his Wife, but the Woman deprives her Huſband of any Legitimate Iſſue; for when

ſhe

ſhe converſes in this Manner with another Man, the Iſſue may be equally look'd upon to be that Man's, if not more; and this Lady hath kept this Converſation ever ſince the Year Sixteen Hundred Eighty Seven, and left the Duke.

One Thing is farther objected, and they inſiſt upon certain Articles of Agreement in Ninety Four, and they read to you the Preamble of them: Why Sir, The Articles if they come to be read through, I am ſure it wont amount to what they pretend; it does not amount to this, That ſhe ſhould live after her own Pleaſure: Indeed ſhe was to have the Uſe of her Houſhold Goods, and Servants, and live where ſhe pleas'd, but that will not juſtify her in her Way of Living.

Then to tell you, Theſe are Matters of a long ſtanding; They are ſo, and of a long Continuance; for if my Inſtructions prove true, we ſhall prove this Scene of Adultery for matter of eight Years ſucceſſively, and that by Servants that were privy to the Intrigues, who were ſent away to *Holland*; but no ſooner was the Bill baffled, but the Man was ſent for again, and the ſame Converſation continu'd that was between the Dutcheſs and Sir *John Germaine*, before he left *England*.

The ſame was continu'd after he came back to his Service in 1691, only they

on it, as a Reaſon why the Parliament ſhould not proceed in it, it being to take upon them an original Juriſdiction; but we were then anſwer'd, by a Learned Gentleman againſt this Bill, That it was in vain to go there, for they could not give the Remedy that might reaſonably be expected. I beg the favour to mention a Caſe or two, where Divorces have been in Parliament, and there have been no Proceedings in the Spiritual Court: One of them was the Caſe of Mrs. *Knight*, who was marry'd *infra Annos Nubiles*, to Mr. *Goodwin*. Every one knows, that a Marriage, *infra Annos Nubiles*, is a good Marriage, and if the Woman be above Nine Years Old, ſhe ſhall be Endowed; and yet, notwithſtanding, for ſome irregular Proceedings, without going into the Spiritual Court, they came into Parliament, and a Bill was paſs'd, by which this Marriage was diſſolv'd, and, I think, 'tis expreſly Enacted, That ſhe ſhall not marry 'till ſuch an Age. This goes farther; for here I am ſure the Doctor would have complain'd, and told you, if there had been Reaſon to diſſolve the Marriage, they could have done as great a Feat in the Spiritual Court; That they could have examin'd Witneſſes upon Oath, and could have told you whether there was proper Evidence; yet

yet the Parliament, without any regard to what they could do, would assert their own Jurisdiction.

The Case of Mr. *Wharton* was mention'd on the other Side, and therefore I need not say any thing to it. There was nothing of Divorce, nor needed any.

They say this Bill begins where it is proper for Matters of this Nature to end; and that after we have taken a Turn into the Spiritual Court, and travell'd three or four Years there, then it will be fit for the Judgment of Parliament. I would know if they had been seven Years in that Court, (and perhaps if we come there, we shall not get out sooner) to what Use the Examination of that Court would be. This House, I presume, would not let those Depositions be read here, especially if the Witnesses to these Facts were living.

They say, This is a very summary Way of proceeding, it may be too quick for the Dutchess; but you may be pleas'd to consider, that there was a Bill brought into the other House some Years ago and rejected; upon what Terms, that will rest upon us, to shew you by and by.

But the Matter was, The Witnesses that prov'd the Fact were sent out of the Way by the Dutchess and Sir *John Germaine*, when things were under an Examination; and we hope a Matter of this Nature ne-

ver ſhall be baffled, by keeping the Evidence out of the Way.

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The ſame was continu'd after he came back to his Service in 1691, only they

were ſomething more cautious, and People were not admitted ſo familiarly, to ſee them in Bed together in 1692, and ſo it continu'd 'till 1695.

They mention'd the Statute of Limitations, which was to put an End to frivilous and vexatious Actions; but how they can apply it to this Caſe, I can't ſee, becauſe a Man ſhall not bring frivilous and vexatious Actions after a long Diſtance of Time; therefore a Man ſhall not complain, when he hath receiv'd the greateſt Injury that can be done to Mankind.

Sir, They are kind to us again, in recommending it to the Duke, to go into the Spiritual Court 'till next Seſſions; but we think we are in a proper Method here for that Relief which the Spiritual Court cannot grant; and ſince we have ſo good Reaſon to come here, if we prove the Fact, I hope this High Court will not ſend away a Complaint of this Nature, without ſuch Relief as is ſuitable.

Mr. *Northey*. Sir, I am of the ſame Side. I would beg Leave to ſay this, as to what the Council have ſaid in relation to the Evidence, That there were three Witneſſes examin'd upon Oath, in the Houſe of Peers, before the Bill did paſs there, and I believe they are aware of that; and that when you hear our Witneſſes, there will be

be no Anſwer to be given on their Side; and indeed the Witneſſes they brought, were ſo far from contradicting our Witneſſes, that they did really confirm them. But this is not the Caſe now; what our Evidence is, or whether it be fit for you to believe them, that will be when you have heard them; and for the matter of the Time, that you can't take Notice of neither, 'till you hear our Evidence. But this I may ſay, we ſhall bring a Man that will ſpeak to within four or five Years.

But the Matter they apply themſelves to, which is material, is, Whether it is proper for you to proceed upon this Bill; that is, to give ſuch a Relief as we deſire, by diſſolving this Marriage. And in the next Place, Whether this be a proper Time to ask this Favour.

For the firſt, the Learned Doctor tells you, 'tis not proper at any Time to do it; for he would have the Canon-Law govern here, as it does in their Courts. But the Council, on the other Side, have cited you ſeveral Precedents where it hath been done. In the Caſe of the Marquis of *Northampton*, the Second Marriage was contrary to the Canon-Law, and yet that Marriage was confirm'd according to God's Law. And this Bill is to relieve againſt the Canon-Law.

Now, whether we are here in a proper Time, Sir *Thomas Powys* has ſaid a great many Things, which may be proper to many other Purpoſes. One Argument was, becauſe the Witneſſes can't be upon Oath, but that we know will not prevail in this Place. In the next Place, they except, becauſe this Proceeding is in a ſummary Way. I would know of them, Whether there is not the ſame Objection to all Proceedings before a Jury, That they have no Notice what Witneſſes will be produc'd.

Then in the next Place, they bring a great Argument from the Recital of ſome of theſe Bills, that there have been before a Sentence in the Eccleſiaſtical Courts. Now, 'tis true, they have been ſo in ſome of thoſe Caſes; but I beg leave to obſerve, That in the Caſe of the Marquis of *Northampton*, the Bill was not to confirm the Sentence, or to enable them to marry, but to deliver them out of the Hands of the Eccleſiaſtical Courts, who ſaid, it was not Lawful in that Caſe to marry; for they were marry'd before.

I beg Leave to ſay, That in the Caſe of my Lord *Macclesfield*, there was no Notice in the Bill, that came down to you, of any Proceedings in the Eccleſiaſtical Courts. And I take this to be the Reaſon, becauſe there was no Sentence; though where there was a Sentence, they had good Reaſon to take

take Notice of it. And I think there is as much Certainty, and as good Ground to proceed on this Bill, as in the other Caſe; for the Witneſſes have been already examin'd in the Houſe of Lords. In the Caſe of my Lord *Roſs*, there was no regard to the Determination of the Eccleſiaſtical Courts, as a Guide to the Parliament; and it was look'd upon as of no Conſequence, for the Witneſſes were examin'd again.

'Tis true, when we came before you without ſuch a Proceeding, we came under this Diſadvantage; you will be ſure to expect a plainer and fuller Proof; but for that, we will undertake to make the Fact ſo plain, that they can't give the leaſt Pretence of Anſwer to it.

We are here aſking that we can't have any where elſe. Their great Deſign is Delay, and that we have learn'd from the Civilian, who tells you their Methods are very grave and deliberate; and that they may have a Commiſſion to examine Witneſſes beyond Sea, and that is to inquire how their own Servants have liv'd beyond Sea.

As to what Sir *Thomas Powys* would have, that is, that we ſhould go into the Spiritual Court, and apply our ſelves again here next Seſſions; I do not think the Legiſlature will ſend us back to aſk that in the Spiritual Court, which both have ſubmitted

mitted to; for after the Duke had miſcarry'd in the Relief he ſought by another Bill, by the Dutcheſs's ſending the Witneſſes out of the way, why, truly, after that, to prevent any Proſecution in the Spiritual Court, the Dutcheſs ſubmitted to a Separation by Articles; and that was all the Duke could have pretended to by the Eccleſiaſtical Law; we follow her upon that, and come to enforce that Separation, and to make it effectual; and for that which we humbly hope will be thought but Juſtice to the Duke, that is, to be deliver'd from this Wife, and to have Liberty to marry again; we think there is no occaſion for Delay, and that no Body can be hurt by a Precedent that carries Relief in this Nature, and delivers us from a Law, which, in the Days of Popery was put upon us. Upon the whole Matter, I hope you will think that we are here very properly for Relief, and that we ſhall have the Favour to call our Witneſſes.

Dr. *Oldiſh.* Sir, The great Objection againſt the paſſing of this Bill, was, becauſe Witneſſes had not been examin'd in the proper Court. 'Tis very true, generally ſpeaking, in Caſes it ought to be ſo, but here is a very great Exception to that Rule, and which I think can't admit of an Anſwer, and that is the Notoriety of the Fact; and in that Caſe they begin with Execution.

And

And if that be ſo, I think there never was a clearer Demonſtration in the World; for when formerly the Dutcheſs came to give in her Anſwer, in the Houſe of Lords, to the Charge againſt her, ſhe did declare, That in the Year 83, or thereabouts, ſhe went out of *England*, and tarry'd three Years, and return'd about the Time of the *Revolution*. And it does plainly appear there, beyond all Queſtion, that ſhe was at *Lambeth*, and went under the Name of the Lady *Beckham*, and was attended by one *Keemer*, who went then by the Name of *Goodman*: Beſides this, there are Witneſſes that ſpeak to particular Facts. Now, I ſay, here is that which amounts to Demonſtration, and where there is a Notoriety of Fact, that is, an Exception out of the General Rule, and 'tis proper to begin with Execution.

There is an Exception to the General Councils and Canons, that have been mention'd, That there ſhall not be a Divorce, *à Vinculo*. Sir, I ſay, it was an Eccleſiaſtical Conſtitution, which was againſt the Law of God, and 'tis demonſtrably ſo; for where our Saviour ſays, *That a Man ſhall not put away his Wife, except in Caſe of Fornication*; it is plain, that in Caſe of Fornication he may.

There is another thing inſiſted on, and that is, That there was a Reconciliation between the Duke and his Dutcheſs. 'Tis true,

true, a Reconciliation ſhould drown all Things before that Time; but when the Law takes Notice in Caſe of a Relapſe, that does *recrudeſcere*, it rubs upon the old Sore; and then that, which was before laid aſleep, is brought again upon the Stage, and will return with greater Vengeance. And we have plain Proof of her living in the ſame Manner ſince, as before.

But they would inſinuate to you, That in caſe there was a Tryal in the Eccleſiaſtical Court, there might be a Recrimination; but there muſt be a Compenſation, which can't be thought in this Caſe; for I think in this Caſe, under Favour, there is no Compariſon. I don't think they are *Pari a*; for 'tis impoſſible for the Huſband to do that Injury as the Wife may; for ſhe may bring a Baſtard into the Family, and then the Eſtate does not go according to the Law of God and Nature; for every Body deſires his own Blood ſhould ſucceed him.

Sir *Thomas Powys*. Sir, I ſhall ſay but very little. But three or four Things have been mention'd on the other Side, which they offer, as if they conceiv'd them to have great Weight, and yet they ſeem to me as very capable of being anſwer'd; and I crave your Favour to do it.

They have gone much upon the Proofs that they are ready to make, and I think not

not very properly, becauſe we ſpeak againſt their Proceeding upon this Bill; but I am ſure it turns upon them, for according to their own ſhewing, they are very well prepar'd to proceed in regular Courſe; for they have their Witneſſes ready, and nothing does obſtruct them.

Mr. *Serg. Wright* mention'd a Thing, which, I muſt confeſs, I was ſurpris'd in; for when I told him he could not find any Precedent of ſuch a Bill as this, without a previous Proceeding in the Spiritual Court, Mr. *Serg. Wright* ſaid, it was quite otherwiſe; and, to ſhew you it was ſo, he cited two Caſes, where there was no Marriage; now I always underſtood a Divorce muſt be in any Caſe where there was a Marriage; for the Caſe of Mr. *Knight*'s, that was very lately; that was the Caſe of an Infant, who they pretended to have marry'd, *infra Annos nubiles*; and therefore, ſays he, the declaring of that Marriage to be Null and Void by Act of Parliament, was a Divorce. The other was the Caſe of Mrs *Wharton*, which was no Marriage neither, for Marriage muſt be by Conſent, and that was a Force; and that he fancies to be a Caſe where there was a Divorce too, without proceeding in the Spiritual Court; and yet, of his own ſhewing, it was no Marriage.

Another Thing I am much more ſurpris'd at. We inſiſted, That they would not ſhew an

an Act for making a Divorce, without giving the Party an Opportunity to make a Defence; and the Doctor ſays, In common Caſes it ought to be ſo; and they cited the Caſe of the Earl of *Macclesfield* we firſt mention'd; and the Doctor told you the Progreſs it had; and that there was a full and regular Proceeding of great Length of Time; and that my Lady *Macclesfield* had all her Witneſſes examin'd; and my Lord proſecuted her to an Excommunication, which, is in Effect, a Sentence; for it is in our Law, as in Caſe of Outlawry: This he calls a Precedent, wherein they proceeded to get an Act of Parliament, without a previous Proceeding in the Spiritual Court.

He tells you, in the next Place, That notwithſtanding the Divorce in the Caſe of my Lord *Roſs*, the Parliament did examine Witneſſes: 'Tis true, they did; for I don't think they will ſo entirely pin their Faith upon thoſe Proceedings, as to have no other Satisfaction. But will he therefore ſay, they took no Notice of it, when 'tis the Foundation and Ground of the Bill?

He tells you in the next Place, that the Crime does not ſeem equal between the one and the other; and ſo, in ſome ſort, they redicule the Doctor's Notion of Recrimination: But I apprehend the Doctor

is

is right in it; for it would be hard, if a Man ſhould marry a young Woman, and give her an ill Example in his own Family, (I do not ſay 'tis in this Caſe) and bring her acquainted with looſe and ill Company, and by his Example or Provocation, lead her into the ſame Offence. Would that Man deſerve to be rewarded with a new Wife, and another Portion, becauſe his firſt Wife had only follow'd his Example?

They ſay, The Offence is not equal, becauſe the Man brings no Children into the Family.

I doubt it happens oftentimes to them that go abroad, that they bring Home that to their Wives, which ſticks longer by them than their Children.

Then to come and ſay, The Articles can't be of any Uſe to us at all; and to imagine, that we uſe the Articles ſo, that the Dutcheſs might be at perfect Liberty to live in Adultery: I wonder how that Conceit hath follow'd him thither, when we told him, We had not ſuch a Thought, as to live in Adultery; but they do direct her to live ſeparate; and ſo we us'd them as an Anſwer to that Part; we us'd them likewiſe as an Act of total Oblivion and Remiſſion of any thing beyond that Time; and, I hope, to ſuch Purpoſes, they ſhall be thought ſacred.

Now

Now, I beſeech you, Sir, on the whole Matter, have they, on the other Side, ſaid one Thing, but what does totally tend to bring all Caſes of Adultery immediately before you? Have they diſtinguiſh'd this Caſe from the Caſe of any other Perſon? And then, if they have not, I do not ſee, from henceforward, that any but Fools will go to the Eccleſiaſtical Courts for Relief: For, ſays the *Serjeant*, they cannot give them a final Relief, and enable any Perſon to marry again; and therefore, let no Body think to go there again; but here is a Relief to be had worth a Man's having. But, I hope, we ſhall have the Benefit of the Law, as it is, 'till you think fit to alter it; and then you will erect ſome Judicature, where People may have their Trial. Now, therefore, the Argument goes too far, or it argues nothing at all; becauſe, if there be any thing in it, it goes to take away the Proceedings of thoſe Courts totally.

But tho' thoſe Courts cannot do all that theſe Gentlemen deſire, they can do what is very proper to be done. They can examine Witneſſes, and pronounce Sentence, and give the Party a full Opportunity of knowing the Accuſation and Accuſers; and then the Caſes, we have mention'd, have had the Aid of an Act of Parliament.

Sir,

Sir, We have ſpent a great deal of your Time already: I hope, ſince you ſee what Uſe they make of the laſt Precedent of my Lord *Macclesfield*, where he did proceed to an Excommunication; now from thence they argue, that you ſhould proceed originally in this Caſe. When is the Time to make a Stand, but in the firſt Caſe? And then no Man can complain of any Injury. If you grant this to my Lord, I think, in Juſtice, you cannot deny it to any other that ſtands in need of it. I believe, there never was the like before; and therefore, I hope, you will put a Stop to it here.

Mr. *Dodd.* The Gentlemen on the other Side have told you, that our Saviour hath ſaid, *That no Man ſhould put away his Wife, except for Fornication.* 'Tis true, the Text is ſo; but he cannot ſhew you any Text, wherein our Saviour ſays, That the Man may marry again, tho' he might put his Wife away. Another Thing was ſaid, as to the Proceeding in the Eccleſiaſtical Courts. Dr. *Oldiſh* ſays, There is to be nothing but Execution, where there is a Notoriety of Fact. And here the Fact is notorious; and therefore you may come up to order Execution: But that is a ſtrange Doctrine to our *Engliſh* Conſtitution. Would they hang one firſt, and try him afterwards? That would make Work. Let the Fact be never

never ſo notorious, yet 'tis the Right of all the People of *England* to have a legal Tryal; and, I hope, you will not interpoſe, 'till there hath been a regular Tryal in another Place.

Then Sir *Thomas Powys* offer'd to produce the Articles, but they were admitted.

Lunæ 25 die Martii, 1700.

The Houſe reſolv'd it ſelf into a Committee of the whole Houſe, to conſider of the Duke of Nolfolk's *Bill.*

Sir Rowland Gwyne *took the Chair of the Committee of the whole Houſe.*

And the Council and Sollicitors were call'd in, and the Bill read to them. And then Mr. Northey, *of Council with the Duke, open'd the Evidence thus.*

Mr. *Northey.* I Am of Council for the Duke of *Norfolk.* I ſhall not trouble you now (becauſe I think it not fit) to ſay any thing for the Bill, for that you have approv'd of by Commitment of the Bill; and declar'd it to be a reaſonable and juſt Relief againſt the Dutcheſs, for the Adultery charg'd in the Bill. I ſhall not ſpend any of your Time in aggravating the Crime of Adultery.

But

But that which is incumbent on his Grace's Council now, is to lay before you the Proofs of the Fact ſuggeſted in the Bill. And the Facts to be prov'd are the Introduction of the Bill; That the Dutcheſs has liv'd for divers Years in Separation from the Duke; and had unlawful Familiarity, and adulterous Converſation with Sir *John Germaine*: And for that Fact we will call our Witneſſes.

And our Evidence will make this out to you, as plain as 'tis poſſible to expect a Matter of this Nature to be prov'd.

However, I think they have manag'd Things in that Manner, as we ſhall be able to give as plain a Proof of theſe Facts, as might be expected of thoſe Acts which are in their own Nature moſt publick. However, in the Nature of the Thing, there were but a few Perſons to be entruſted with it, and thoſe were generally Servants who had Attendance on the Dutcheſs's Perſon. We ſhall produce you Servants, both of the Dutcheſs, and Sir *John Germaine*. And, I hope, it cannot be an Objection, That they are Servants; for, to object to them, for that Reaſon, is to ſay, You ſhall prove the Fact, but you ſhall have no Witneſſes; for theſe are Facts that cannot be prov'd, but by ſuch as were concern'd with the Dutcheſs.

For

For our Evidence, it will fall out to be this, The Duke and Dutcheſs were marry'd in the Year 1677, and they liv'd together 'till about the Year 1685; and then the Duke having ſome Account of her Converſation of this Nature, they did part, and afterwards ſhe came to live openly with Sir *John Germaine*; for in *May*, 1689, the Witneſſes will give you an Account, that for two Months together ſhe lodg'd with Sir *John Germaine* at the Cock-pit; and they liv'd there as Man and Wife, as the Witneſſes phraſe it. During the Time they liv'd there, there was a near Relation of Sir *John Germaine*'s, Mr. *Daniel Germaine* his Brother, and Mrs. *Briane* his Siſter, did frequently come to the Houſe; and two of the Witneſſes were frequently in the Room while they were a-bed together.

After two Months Time, the Dutcheſs thought fit to be a little more private, and it was given out ſhe was gone to *France*; but in Truth ſhe remov'd to *Fox-Hall*, to a Houſe that was taken by Sir *John Germaine*'s Brother, and went by the Name of my Lady *Beckman*; and ſhe liv'd there two Years ſucceſſively; and Sir *John Germaine* came there frequently once or twice in a Week, and lay there a-Nights. During that Time, we have two Witneſſes, that did attend the Dutcheſs, as well as at the Cock-pit:

Cock-pit; one of them is *Ellianor Vaneſſe*, who was hir'd by Sir *John Germaine*'s Siſter, and liv'd with the Dutcheſs at the Cock-pit two Months. We have a ſecond Witneſs, one *Hauſeur*, who was with Sir *John Germaine* at the Cock-pit 15 Days before the Dutcheſs went to *Vaux-Hall*; and afterwards he went to *Vaux-Hall*, when ſhe remov'd there, and ſtay'd with her all the two Years.

Theſe are both Foreigners, and *Dutch* People; and it was reaſonable enough to expect foreign Witneſſes, when an *Engliſh* Dutcheſs had a foreign Gallant. They are ſuch as he thought fit to entruſt about her.

After ſhe had liv'd two Years at *Vaux-Hall*, [this brings her to the Year 1691] ſhe remov'd Home again to her Houſe at *Millbank*; and there Sir *John Germaine* and ſhe were frequently together, and have been ſeen a-bed together.

This brings us to the Time when the Duke having an Account that ſhe had this Converſation with Sir *John Germaine*, brought a Bill into the Houſe of Peers for a Divorce; but it happen'd, that the Dutcheſs and Sir *John Germaine*, to avoid the Condemnation, kept the Witneſſes out of the Way, and afterwards caus'd them to be ſent into *Holland*.

The Woman ſtay'd abroad 'till about three Months ago; but the Man return'd

before into Sir *John Germaine*'s Service; and he will give you an Account of what Obſervations he made there, for the Familiarity continu'd between them then. He was admitted into the Room where they us'd to be; and he will give you an Account how he hath ſeen them frequently together. And he brings it down to within the Year 1695.

We have another Witneſs, one *William Bayley*, who likewiſe was a Servant to Sir *John Germaine*, and came into his Place when *Hauſeur* went beyond-Sea. He is an unwilling Witneſs, becauſe he hath been preferr'd by Sir *John Germaine*: But when he was upon his Oath in the other Houſe, he did give an Account, That while he continu'd in Sir *John Germaine*'s Service, notwithſtanding this publick Reproach in 1695 and 1696, ſhe frequently came to Sir *John Germain*'s Houſe, with one *Keemer*, whom ſhe had great Confidence in; and one *Suſanna Barrington*, I think yet in the Dutcheſs's Service. And this Mr. *Bayley* will give you an Account, That his Maſter was often from Home; and when he was ſo, he us'd to carry his Linnen to this *Keemer*, who was the Dutcheſs's Servant, or this *Keemer* would come to him for it; and this will bring it down to 1696. There are ſeveral Witneſſes to confirm this; but we think, with Submiſſion, after the Dutcheſs

Dutcheſs had been ſo accus'd in the Houſe of Lords of ſuch a Familiarity, any Evidence of a Converſation between them afterwards, is as much as a thouſand Witneſſes; for no Woman that valu'd her Reputation, having been accus'd as ſhe was, would have had any Converſation with Sir *John Germaine* afterwards. But we don't want Circumſtances to ſupport the Evidence of Fact: We have as plain Evidence in this Caſe, as can be expected in a Caſe of this Nature. We will ſpend no more of your Time, but beg Leave to call our Witneſſes.

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'Tis farther prov'd, That Mr. *Daniel Germaine* and Mr. *Brian*'s Wife were in *England* lately, and that theſe were privy to the ſame Converſation.

Then the Witneſſes were call'd in, one by one, and Interpreters allow'd.

The Witneſſes that were examin'd before the Committee of the Commons, were, *El-*

lena Vaneſſe, *Nicholas Hauſeur*, *William Bayley*, and *Anne Read*.

But all, except *Anne Read*, were examin'd in the Houſe of Lords; and their Evidence there being at large ſet forth, the Reader is referr'd to the ſame. The Evidence of *Anne Read* is as follows.

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Sir *Thomas Powys*.] I am at a Loſs, Sir, and under ſome kind of a Surpriſe, be-

cauſe,

cauſe, as far as I can apprehend, you call upon us to make our Defence. I hope, in a Caſe of ſuch Moment as this is, (and, it may be, there cannot be greater) and ſince you are pleas'd to take this Caſe out of the uſual Way of Tryals, and to try it in the firſt Inſtance, you will be pleas'd, that we ſhould be fairly and regularly heard; and ſince it was not allow'd us, upon our being heard againſt the Bill, that we ſhould have a Time to make our Defence. Now we have heard what the Witneſſes ſwear, we ſhall deſire but a ſhort Time, no more than what is abſolutely neceſſary to make our Defence. This hath ſpent us ſix Hours already; and, I am ſure, the Witneſſes that have been examin'd, have given ſuch Variety of Anſwers, that it doth afford a great deal to be ſaid to it. We have likewiſe a good many Witneſſes to be examin'd; but I am far from propoſing any thing to delay it. We had a Weeks Time allow'd us in the Houſe of Lords; but that is no Rule for you, and we don't expect it here. But even while we are at this Bar, a Perſon from a very worthy Member, gives us Intelligence, upon Sight of this Cook-Maid, of a Matter that will defame her; and he will be ready to make it out, that ſhe was turn'd away for being a common Thief in *Holland*: And therefore, Sir, you ſee how Time is neceſſary, in Point of Ac-

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cidents that do happen; and I cannot make our Defence now.

Thereupon the Council withdrew; and the Committee having conſider'd of the Deſire of the Council for the Dutcheſs, to have Time allow'd them to make their Defence, were of Opinion, That the Council ſhould proceed then to make their Defence; and Candles were order'd to be brought in.

And the Council being call'd in again, Sir *Rowland Gwynne*, being in the Chair of the Committee, acquainted them with the Determination of the Committee.

Then Sir *Thomas Powys* obſerv'd upon the Evidence that had been given, and inſiſted, that the Evidence given before the Committee of Commons, did differ from the Evidence given by them upon Oath in the Houſe of Lords; and offer'd to produce the Examination of the ſaid Witneſſes upon Oath in the Houſe of Lords. And an Objection being made, that ſuch Examination ought not to be read in that Caſe, as Evidence before this Committee; the Council withdrew, and the Committee conſider'd of the ſaid Objection, and were of Opinion, that the ſaid Depoſitious ſhould not be read.

And Council being call'd in again, were acquainted with it, and that if they had any

Witneſſes

Witneſſes, *viva voce*, to encounter their Evidence, they might produce them.

Sir *Thomas Powys.*] Sir, By this Reſolution, my Client is depriv'd of that Defence I thought I could have made for her, but I ſubmit to the Pleaſure of the Committee.

Mr. *Atwood.*] The Examinations in the Houſe of Lords were ſo lately, that 'tis an eaſy thing for the Solicitors, who were by, to give an Account of a Contrariety in the Evidence, if there were any.

A Member.] Whether you have any other Evidence to offer, but as to this Point?

Sir *Thomas Powys.*] All our Evidence would tend to contradict theſe Witneſſes; and if the reading of thoſe Depoſitions, won't be allow'd, we muſt abide your Pleaſure, and ſubmit it to you.

Mr. *Dodd.*] We ſubmit it to you; our Witneſſes were in concurrence with that ſort of Evidence.

Sir *Rowland Gwynne.*] There are ſeveral Perſons nam'd, who are Perſons of Credit and good Reputation; Mr. *Briane* and his Lady, Mr. *Daniel Germaine*, and his Siſter: Theſe would be Witneſſes of Credit againſt thoſe that are, you ſay, not of Credit.

Council.] We have ſummon'd them, and Mrs. *Pitt*, and done all that we could on our Side, to get them here. And I hope you won't prejudge our Caſe, to ſay they are in our Intereſt; that is to determine the

the Queſtion. We have likewiſe ſummon'd Mrs. *Pitt*, and her two Maids, and whether they will appear or not, that we cannot tell; but this we are ready to make out to you.

Mr. *Atwood.*] *Suſanna Barrington*, the Dutcheſs's Woman, privy to the whole Converſation, is prov'd to have been with her ſince the Bill was brought into the Houſe of Lords.

A Member.] Whether he has one living Witneſs to produce, that he can make good his Defence by?

Sir *Thomas Powys.*] Sir, if you expect an Anſwer from me, I am aſſur'd, that we have Witneſſes; but if I cannot bring thoſe People againſt themſelves; if I cannot bring *Nichola* againſt *Nichola*, I diſpair of doing any Good, if I bring a thouſand other Witneſſes againſt him. And therefore I pray this Favour of you, That ſince 'tis your Pleaſure, that this Evidence be not allow'd, you will not make a bad Conſtruction of it, that I do not proceed to make a Defence to this Bill; for I cannot truly do it, unleſs I had ſome other Inſtructions from my Client, but ſhall defeat her Expectation, to proceed upon the other Part of the Caſe; ſince what we built upon with good Authority, as we thought, is not thought fit to be admitted.

Sir *Rowland Gwynne.*] Sir, you are at Liberty to go on, if you have any Thing more

to

to ſay, than that you cannot proceed without farther Directions from your Client.

A Member.] Whether they have any Thing to offer in the Defence of the Dutcheſs, upon the Crime ſhe is charg'd with; for I believe 'tis a new Thing for the Council, when their Client is charg'd with a Crime, to ſay, they cannot defend her, unleſs they go and aſk whether they ſhall defend her or no? If they have any thing to ſay in her Defence, we ſhall be ready to hear it.

Sir *Rowland Gwynne.*] Sir *Thomas Powys*, have you any thing more to ſay?

Sir *Thomas Powys.*] I cannot but repeat what I have already ſaid, That I would be glad to make the beſt Defence this Caſe may bear; and I may ſay, I have defended it twice with very good Succeſs, and this is a third Time; and I would make the beſt Defence this Caſe would bear now. And I muſt own to you, that the Courſe of our Evidence we did propoſe to our ſelves, is ſo far broke, by the firſt Determination you were pleas'd to make, that I cannot venture upon the reſt of the Defence, if ſo be your Pleaſure be not to admit of this Matter.

Sir *Rowland Gwynne.*] You may, by any Solicitors or Agents, that were preſent when theſe Witneſſes were examin'd in the Houſe of Lords, prove what they ſwore there.

Mr. *Dodd.*]

Mr. *Dodd.*] We apprehend you have already determin'd the Matter, and we cannot now meddle with it; but if I apprehend it aright from the Chair, it is your Opinion, That we may produce the Solicitors and Agents to give an Account of what was ſworn in the Houſe of Lords. Now we are under this Diſability by your Determination, That we, relying upon what you have determin'd againſt us, are not prepar'd with our Solicitors or others, to give Evidence of that Matter; but in a little Time they will be able to give you an Account of what was then ſworn.

Mr. *Atwood.*] It ſeems they want to be taught their Leſſon.

And then the Council withdrew, and the Committee proceeded upon the Bill, Clauſe by Clauſe, and went through it, and order'd the ſame to be reported.

F I N I S.